

*Office of the*  
**INSPECTOR GENERAL**



REPORT OF INVESTIGATION

File Number: 09-118

Agency: State Ethics Commission of Georgia

Basis for Investigation: Anonymous Complaint

Allegations: Conducting Private Business on State Time  
Misuse of State Resources  
Conflict of Interest

Date Opened: October 13, 2009

Investigated By: Elizabeth P. Archer, State Inspector General  
Bill Donaldson, Deputy Inspector General

Date of Report: July 14, 2010

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**Elizabeth P. Archer, Inspector General**

## OFFICE OF THE INSPECTOR GENERAL



File Number: 09-118

### EXECUTIVE SUMMARY

In October 2009, the Office of the State Inspector General (OIG) received three anonymous complaints alleging that Thomas Plank, acting Executive Secretary for the State Ethics Commission (SEC) from October 2009 to April 2010, and Yasha Heidari, an SEC attorney, were conducting a private law practice while working on state time. The complainants also alleged that Heidari and Plank's practice in the area of governmental law for private clients against state agencies conflicted with their official duty of representing the SEC.

The OIG forensically imaged Heidari and Plank's state computer hard drives, reviewed time sheets, parking and building access records, official personnel files, policies and procedures, correspondence and applicable state rules and regulations. The OIG also interviewed SEC staff, court clerks, members of the State Law Department, opposing counsel, and SEC Board members.

Our investigation revealed that Heidari and Plank violated state policy on outside employment by failing to seek approval from their supervisor prior to establishing their law firm. Evidence revealed that they communicated with opposing counsel and attended court hearings while on state time. The OIG also found that Heidari and Plank misused state resources by using their state computers to research various courts and information on parties involved with their cases, and by using the SEC's LexisNexis account to conduct legal research related to their practice. During the course of this investigation, records revealed that both Heidari and Plank established a pattern of sick leave abuse.

The OIG found no evidence of Heidari and Plank representing private clients against state agencies. However, the OIG did find that Heidari and Plank engaged in a potential conflict of interest by representing a company that claims to offer lobbying services, an area that they regulate at the SEC.

The OIG offers the following recommendations to the State Ethics Commission. The OIG requests that the SEC provide a written response regarding implementation of these recommendations within 30 days of the issuance of this report.

1. The SEC should implement a policy on Outside Employment, to include requiring all employees contemplating outside employment to submit a Request for Outside Employment form to the Executive Secretary prior to engaging in outside employment. All documentation should be included in the employees' official personnel files.
2. The SEC Board, in consultation with the Executive Secretary, should send a reminder to all SEC employees advising that SEC resources and time may not be used to support private businesses, providing specific examples of prohibited activities, and discussing the possible disciplinary actions that may result from such conduct.
3. The Executive Secretary should frequently monitor sick leave usage to identify potential patterns of abuse. If abuse is determined to have occurred, corrective action should be taken and documented in the employees' personnel files.



**Report of Investigation**

**File No. 09-118**

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**Summary of Actions  
State Ethics Commission of Georgia  
File Number 09-118**

**I. BASIS FOR INVESTIGATION**

In October 2009, the Office of the State Inspector General (“OIG”) received three anonymous complaints alleging that Thomas Plank, Acting Executive Secretary for the State Ethics Commission (“SEC”) from October 2009 to April 2010 and Yasha Heidari, an SEC attorney, were conducting a private law practice while working on state time.<sup>1</sup> Attached to the complaints were links to a website for their private law firm, law blogs on which Messrs. Heidari and Plank posted, and a link to Fulton County’s judicial database showing Heidari as attorney of record for a party to a case filed in Fulton County Superior Court. The complainants also alleged that Heidari and Plank’s practice in the area of governmental law for private clients against state agencies conflicted with their official duty of representing the SEC.

**II. ACTION TAKEN IN FURTHERANCE OF INVESTIGATION**

The OIG forensically imaged Heidari and Plank’s state computer hard drives. OIG reviewed time sheets, parking and building access records, official personnel files, policies and procedures, correspondence and applicable state rules and regulations. The OIG interviewed SEC staff, court clerks, members of the State Law Department, opposing counsel, SEC Board members and Heidari and Plank.

**III. NARRATIVE**

**A. Background**

The SEC is an executive branch agency established under the Ethics in Government Act, designed to protect the integrity of the democratic process and ensure fair elections with the public disclosure of campaign financing and significant private interests of public officers and candidates for public office.<sup>2</sup> The scope of its jurisdiction also includes regulating lobbyist activities and vendor gift disclosures. For purposes of budget, procurement and human resource services, the SEC is administratively attached to the Secretary of State (“SOS”). The SEC Board has five members, three appointed by the Governor, one by the Senate Committee on Assignment and one by the Speaker of the House of Representatives. An Executive Secretary, appointed by the Board, manages the day-to-day operations of the SEC along with a full-time staff of nine employees.

Rick Thompson, former Executive Secretary from 2006-2009, hired Plank in 2007 and Heidari in 2008 as full-time staff attorneys in the Investigation and

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<sup>1</sup> See Exhibit 1 for copies of the original complaints received by the OIG. On November 16, 2009, the OIG also received a complaint from the SEC’s former Budget/Human Resource Director, Jennifer Ward, regarding Heidari and Plank operating a private law firm while employed full-time by the state.

<sup>2</sup> See O.C.G.A. Section 21-5-1 et seq.

Enforcement Unit. Their primary responsibilities include investigating violations of the Ethics in Government Act for presentation to the Board and writing advisory opinions. On October 16, 2009, Thompson resigned and the Board appointed Plank the Acting Executive Secretary. As a result of his appointment, Plank became Heidari's supervisor. Plank served in this position from October 2009 until April 2010, when the Board appointed Stacey Kalberman as Executive Secretary.

In addition to their full time employment with the State, Heidari and Plank are the founding members of the law firm, Heidari & Plank, LLC (hereinafter "Heidari & Plank, LLC"), a limited liability company created on March 5, 2009.<sup>3</sup> According to their website and various social networking sites, Heidari and Plank handle cases involving civil litigation, immigration law, regulatory law and business law.<sup>4</sup> They also profess to have "extensive experience in drafting regulatory laws, rules and opinions, as well as representing both the government and individuals in front of regulatory bodies, on both the state and federal level."

On April 19, 2010, Heidari resigned from the SEC. He continues to practice law at Heidari & Plank, LLC.

## **B. Applicable State Policy on Outside Employment**

The State Personnel Administration ("SPA") has an outside employment policy that requires state employees to follow specific guidelines when engaging in outside employment. SPA Rule 7, Section 478-1-07(1)(a) provides:<sup>5</sup>

Employees engaged in outside employment, including consultant relationships, must inform their supervisor of the nature of the additional work and their corresponding work hours. Employees must also disclose actual or potential conflicts of interest related to their outside employment activities, and/or relationships as soon as they become aware of them.

State employees are also restricted from engaging in actual or potential conflicting employment activities. Conflicting activities include employment that interferes with the time or attention that should be devoted to the employee's duties with the state, and improper use of the states resources.

Additionally , O.C.G.A § 45-10-1 (Code of Ethics for Government Service) requires that "any person in government service should [...] give a full day's labor for a full day's pay and give to the performance of his duties his earnest effort and best thought."<sup>6</sup>

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<sup>3</sup> See Secretary of State records for Incorporation documents.

<sup>4</sup> See [www.heidariplank.com](http://www.heidariplank.com); <http://www.facebook.com/pages/Norcross-GA/Heidari-Plank-LLC/314628593221?v=wall>; <http://twitter.com/heidariplank>

<sup>5</sup> See Exhibit 2 for a copy of SPA's entire policy on outside employment.

<sup>6</sup> See § 45-10-1 Code of Ethics for Government Service

## C. Investigation

### ***Allegation: Heidari and Plank violated State policy by failing to notify their Supervisor of their law practice.***

The OIG reviewed Heidari and Plank's personnel files and found no documentation indicating prior approval or information detailing the parameters of their outside employment with their law firm. The OIG interviewed former Executive Secretary Thompson regarding these issues. According to Thompson, he learned of their law practice in "late spring/early summer" of 2009, when an SEC employee brought the Heidari & Plank, LLC website to his attention. Thompson stated that he was surprised because neither Heidari nor Plank sought his approval before starting their firm. Thompson stated he was concerned about the perception the dual commitments could create, and confronted Heidari and Plank about their law practice. Heidari and Plank informed Thompson that they started their law firm during the time the SEC was undergoing budget cuts, but that they did not have any clients. Thompson stated that Heidari and Plank assured him that the law firm would not interfere with their state jobs.

Because the SEC did not have an internal policy on outside employment, Thompson stated he contacted the Attorney General's Office ("AG") to seek guidance on the matter.<sup>7</sup> According to Thompson, he spoke with Senior Assistant Attorney General Stefan Ritter, who informed him that there was no prohibition against state employees having a law firm so long as no conflict existed and no state resources were used. Based on his conversation with Ritter, Thompson stated he instructed Heidari and Plank to inform him when they started doing legal work for private clients so he could determine if there were any conflicts with their SEC cases.<sup>8</sup> Thompson also instructed them that they could not use any state resources in the furtherance of their private law firm.

Thompson did not inform the Board or Heidari and Plank's direct supervisor, Kay Baker, of their law firm. Thompson recalled informing Jennifer Ward, SEC's former Budget/Human Resource Director, of his discussions with Heidari and Plank. During her interview with the OIG, Ward confirmed that Thompson told her in the spring of 2009 of Heidari and Plank's law firm. In August 2009, Ward stated she voiced her concerns to Thompson about Heidari and Plank having a governmental law practice while employed full time with the SEC. Ward was also concerned that Heidari and Plank had not followed SPA's policy on outside employment. She recalled that Thompson asked her to contact Ritter to seek guidance on the matter. According to Ward, she attempted to contact Ritter several times, but was unsuccessful.

The OIG interviewed Ritter who stated that he did not recall speaking with Thompson in early spring about Heidari and Plank's law firm. According to Ritter, he did not learn of their law firm until October 2009. Ritter stated that while looking for Heidari's contact information on the Georgia Bar website, he noticed that Mr. Heidari was listed in the directory with Heidari & Plank, LLC.<sup>9</sup> Ritter questioned Heidari about

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<sup>7</sup> Thompson informed the OIG that only draft policies existed at the time he learned of their firm.

<sup>8</sup> See Thompson transcript, page 11.

<sup>9</sup> See Exhibit 2 for a copy of Heidari's profile information obtained from the Georgia Bar Directory.

the firm and Heidari told him that he and Plank had previously cleared their private practice with Thompson, but that they really did no work for the firm. Ritter explained to Heidari that the existence of their firm would definitely “raise some eyebrows” and that it was imperative that they perform no work for their firm while on state time. Ritter also advised Heidari to inform the SEC Board of their law firm or he would.

The OIG interviewed Bill Jordan, Chairman of the SEC Board from February 2007 through October 2009. Chairman Jordan stated that he first learned of Heidari & Plank, LLC in October 2009.<sup>10</sup> Upon learning of the firm, Chairman Jordan contacted Plank who stated that Thompson had approved their outside employment. Plank also stated that the AG’s office informed him that there was no prohibition against having a law firm.<sup>11</sup> Chairman Jordan requested that Plank memorialize their conversation in an email so he could confirm Plank’s statement with the AG’s office. On October 14, 2009, Plank sent the following email to Chairman Jordan:

As we discussed previously, Yasha and I have formed a small law firm in order to gain some experience in other areas of the law and to take on some clients pro-bono. The AG’s office sees no problems with this so long as we do not do any work other than government work on government time and we avoid any conflicts. Naturally, we will never use government time or resources for anything other than service to the Commission. Likewise, we will never take on any clients that will create a conflict of interest. If by some remote possibility a conflict ever does arise, it will be immediately disclosed to the Commission and action will be taken to ensure that the conflict is nullified. With that said, we are extra diligent to ensure that a conflict will never arise.<sup>12</sup>

Chairman Jordan forwarded Plank’s email to Ritter, requesting his legal opinion. Ritter responded that he was unaware of any explicit prohibition against Heidari and Plank having a law firm, but listed various rules pertaining to conflicts of interest and outside employment. Ritter reiterated that the existence of their firm had “raised eyebrows” in the AG’s office and that “it could and would with the general public were the general public [made] aware of it.” Ritter stated that if Heidari and Plank were to continue with their law firm, doing so had to be done in a transparent fashion in order to avoid the appearance of impropriety.<sup>13</sup>

On October 16, 2009, Chairman Jordan informed the SEC Board of Heidari and Plank’s law firm. According to Chairman Jordan, the Board members were uneasy about prohibiting an employee from engaging in outside employment. However, they felt that this particular outside venture could cause problems for the SEC. Although Chairman Jordan did not give a specific directive to Heidari and Plank to shut down their practice,

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<sup>10</sup> In October 2009, Kay Baker, Former Deputy Executive Secretary, informed Chairman Jordan of Heidari and Plank’s law firm. See Chairman Jordan Memorandum of Record dated February 1, 2010

<sup>11</sup> Chairman Jordan recalled Plank informing him that they opened their practice because of concerns about the state budget. He also recalled Plank informing that they would be accepting paying clients. See Chairman Jordan Memorandum of Record dated February 1, 2010

<sup>12</sup> See Exhibit 3 for copy of Plank’s email message sent to Chairman Jordan.

<sup>13</sup> See Exhibit 4 for a copy of Ritter’s response to Chairman Jordan.



he encouraged Plank to contemplate whether he and Heidari should dissolve the firm. Plank told Jordan that he and Heidari had discussed the issue and had decided to wind down their practice.

The OIG interviewed Heidari and Plank separately regarding whether they sought approval prior to establishing their firm. They stated that before starting the firm they researched applicable state rules and case law to determine whether they, as full-time state employees, could have a private law practice. Based on their research, they concluded that having a law practice would not violate state or agency policy. According to Heidari and Plank, they started their firm at a time the SEC was facing budget cuts and were concerned they would lose their jobs. They also wanted to show potential employers that they could "do something more than finance."<sup>14</sup>

Heidari and Plank conceded that they did not seek approval from Thompson or their supervisor prior to establishing their law firm.<sup>15</sup> According to Plank, he believed that he did not have to disclose his outside employment to Thompson unless a conflict arose. Plank also stated that although Ward knew of their law firm, she never informed him it would create a problem.<sup>16</sup>

In order to determine whether Heidari and Plank's failure to seek prior approval from Thompson to engage in outside employment violated SPA Rule 7, 478-1-07 "Outside Employment," the OIG interviewed SOS's Human Resources Director, John Jurkiewicz. According to Jurkiewicz, state employees must seek approval from their supervisors before taking any affirmative steps to engage in outside employment. Additionally, he stated that the determination of whether the desired outside employment is acceptable belongs to the supervisor, not the employee.

**Based on the documents reviewed and interviews conducted, the OIG finds that Heidari and Plank violated state policy on outside employment by failing to seek prior approval from their supervisor before establishing their law firm.**

***Allegation: Heidari and Plank used the State's time, equipment, and other resources in pursuing outside business activities.***

## **1. Misuse of State Time**

Heidari and Plank's personnel files indicate that they worked various schedules, including compressed and teleworking, during their time at the SEC. According to Heidari's 2009 "Employee Acknowledgment Work Hours" form, his core hours at the SEC were 8:15 a.m. to 5:45 p.m.<sup>17</sup> Because Heidari and Plank shared an office at the SEC, Thompson allowed Heidari to telework from home twice a week beginning in July 2009. His scheduled telework hours were listed as 8:45 a.m. to 5:15 p.m.

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<sup>14</sup> See Plank transcript, pg 68 lines 1-2

<sup>15</sup> See Plank transcript, pgs. 68-71; See Heidari transcript pg. 10

<sup>16</sup> See Plank transcript, pg. 74 lines 8-23

<sup>17</sup> See Exhibit 5 for a copy of Heidari's "Employment Acknowledgement Work Hours" form found in his personnel file.

Although Heidari's telework agreement reflects that he was scheduled to telework on Mondays and Tuesdays, a review of his leave grids and building access records indicate that he worked from home on Thursdays and Fridays. By signing the SEC's telework agreement, Heidari agreed he would maintain an established work schedule with regularly scheduled work hours. He also agreed to perform only official duties and not conduct personal business while on telework status.

Plank did not telework, but worked a compressed workweek. According to his 2009 "Employee Acknowledgment Work Hours" form, Plank worked Monday through Thursday from 8:15 a.m. to 6:45 p.m. On July 14, 2009, Plank changed his scheduled day off to Monday. After Plank was appointed acting Executive Secretary, both he and Heidari changed their schedules to a regular five-day workweek.

The OIG requested that various court clerks in Georgia search their databases for any cases in which Heidari and Plank were listed as attorneys of record. Of those that had the capability to search by attorney name,<sup>18</sup> the OIG found the following:

- Six cases in the Fulton County State and Superior Courts;<sup>19</sup>
- One case in Gwinnett County Superior Court;
- One case in Douglas County State Court; and
- One case in Richmond County Superior Court.<sup>20</sup>

Court documents reflect that all court hearings for these cases were scheduled during Heidari and Plank's core business hours. The OIG also contacted Heidari and Plank's opposing counsel to ascertain whether they communicated with Heidari and Plank during their core SEC business hours. These lawyers provided the OIG with dates and times of their communications with Heidari and Plank that occurred during their scheduled work hours.

On December 21, 2009, the OIG sent Heidari and Plank a letter requesting the following information:<sup>21</sup>

1. A list of all current and former clients (including pro bono clients);
2. A list of pending and closed cases dating from January 2009 to the present;
3. A list of all court appearances, including dates and times of the appearances;
4. The percentage of pro bono work to total work performed;
5. A list of all organizations for which [they had] performed pro bono work;
6. All firm calendars;
7. A list of [their] current and former flexible work schedules at the State Ethics Commission, including telework and compressed work-week schedules; and
8. A list of all cases in which [they] were hired to serve as an expert witness.

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<sup>18</sup> Many of the clerks' offices could only search their databases by party name.

<sup>19</sup> Heidari filed an Entry of Appearance Dec 4, 2009 in *Reese v. Riddick* on behalf of his client, Sandra Reese. However, since the OIG found no evidence that Heidari was conducting any work for this case on state time, this case will not be addressed in the following section.

<sup>20</sup> The Richmond County case will be discussed in the Conflict of Interest section of this report.

<sup>21</sup> See Exhibit 6 for a copy of the OIG's December 21 letter sent to Plank. Although Exhibit 5 only includes the letter sent to Plank, the OIG sent an identical letter to Heidari.

Although Plank initially agreed to comply with our investigation, neither he nor Heidari acknowledged receiving the request or provided a response. On January 5, 2010, the OIG sent a second request via email on January asking Heidari and Plank to provide all previously requested documentation by January 15.<sup>22</sup> Again, Heidari and Plank failed to acknowledge receipt of the request or provide the OIG with the documentation requested. On February 11, while attempting to schedule interviews with Heidari and Plank, Plank sent an email message to the OIG expressing concerns about the OIG's request for information. In his email, Plank stated that the OIG's request went well beyond the issue under investigation and encroached into areas concerning attorney-client privilege. Plank also stated that he was mindful of the fact that his interview would be subject to the Open Records Act and wanted to resolve the issue prior to his interview.<sup>23</sup>

On February 17, 2010, the OIG discussed with Plank his concerns regarding the OIG's request for information. The OIG informed Plank that his concerns could have been discussed beforehand had he responded to our requests in December 2009. The OIG explained to Plank that we were not interested in any communications he had with his clients, but solely the parameters of his practice. The OIG assured Plank that any information retrieved from his state computers pertaining to any SEC investigations would be returned to the SEC at the conclusion of our investigation. Plank stated that he understood and agreed to be interviewed.

Plank informed the OIG that he had four (4) clients. When asked if he placed any restrictions on when he communicated with his clients, Plank responded that he had so few that it was never an issue. He maintained that his associate, Ms. Yenniffer Delgado, handled most of the work.<sup>24</sup> He also denied conducting any work for his clients on state time or using any state resources in the furtherance of his private law firm.

During his interview, Heidari contested the Governor's Executive Order establishing the OIG, objected to not getting notice of the issues,<sup>25</sup> and stated that the only reason he was going forward with the interview was that Plank asked him to do so.<sup>26</sup> Heidari confirmed that he and Plank had received the OIG's requests for information, but did not respond because of Plank's concern with potential attorney-client issues. Heidari also stated that he did not personally respond to the OIG's request because he believed that most of the questions were outside the scope of the OIG's investigation.<sup>27</sup>

The OIG asked Heidari how many clients he was currently representing. Heidari responded he had "a handful of cases." When asked to define a handful,

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<sup>22</sup> See Exhibit 7 for the email message sent to Heidari and Plank on January 5, 2010.

<sup>23</sup> See Exhibit 8 for Plank's response to the OIG's original request, dated February 11, 2010.

<sup>24</sup> See Plank transcript pg. 76 line 8-14

<sup>25</sup> The OIG met with Heidari and Plank on November 20, 2009, before confiscating their computers to inform them of the allegations.

<sup>26</sup> See Heidari transcript pgs. 3-6

<sup>27</sup> See Heidari transcript pgs. 47, lines 6-23

Heidari could not recall the exact number, but stated it was more than one.<sup>28</sup> Later in his interview, Heidari informed the OIG he had approximately five or six clients. He also stated that he would “help out” his friends on occasion.<sup>29</sup>

The OIG also questioned Heidari regarding how he communicated with his clients during his normal work hours. According to Heidari, his clients would typically call him and he would return their call in the evening, whenever he received a voicemail message, or whenever he was available.<sup>30</sup> Heidari stated he was not available to his clients during his core business hours at the SEC. Like Plank, Heidari stated that his associate, Delgado, handled the majority of the work for their law firm. A review of Heidari’s personnel file revealed that his associate, Delgado, shared the same address as Heidari. Heidari initially informed the OIG that he never conducted any work for his private law firm on state time. However, when questioned a second time about his use of state time to attend to his clients’ needs, Heidari responded that the OIG had “not necessarily defined state time.”<sup>31</sup>

Although Heidari and Plank maintained that they never conducted any work for their firm on state time, the OIG found the following evidence:

**Mero v. Vlasek - Fulton County Magistrate Court**<sup>32</sup>

Court documents reflect that on September 15, 2009, Heidari filed an Answer and Counterclaim on behalf of his client, Paul Vlasek, in Fulton County Magistrate Court. On October 16, 2009, Heidari appeared before Magistrate Judge Barry Zimmerman for a bench trial.<sup>33</sup> According to Judge Zimmerman, the hearing started around 9:30 a.m. and lasted approximately two (2) hours. Heidari’s building access records for that day show that he entered the state parking facility at 11:39 a.m. and entered his office suite at 11:46 a.m. Although building access records do not provide his exit time on that date, leave records revealed that Heidari took four hours of sick leave and four furlough hours.

When questioned about his use of leave on that day, Heidari stated that he took furlough for his court appearance. However, because his leave records do not distinguish which hours Heidari used for sick leave or furlough, the OIG is unable to determine which leave type Heidari actually used to attend court on that day.

While interviewing Joel Mero, the Plaintiff in this matter, the OIG learned that Heidari called him several times during the workday. Mero specifically recalled speaking with Heidari on January 7, 2010, around 11:00 a.m. regarding a garnishment Heidari filed against him several days earlier.<sup>34</sup> Official leave records show that

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<sup>28</sup> See Heidari transcript pgs. 26 lines 6-17

<sup>29</sup> See Heidari transcript pg. 40 lines 7-9

<sup>30</sup> See Heidari transcript pg. 32, lines 18-21.

<sup>31</sup> See Heidari transcript pg. 41 lines 1-2

<sup>32</sup> The Fulton County courthouse is located approximately three blocks from the SEC office.

<sup>33</sup> See Exhibit 9 for the Fulton County Magistrate Court Non-Jury Trial Calendar dated October 16, 2009.

<sup>34</sup> According to Mero, Heidari called from the same number listed in his contact information on his firm’s website.

Heidari did not take leave on that day, and building access records confirm that he was at work that day.<sup>35</sup> Heidari first denied communicating with Mero during work hours, but later stated that the conversation on January 7 may have occurred during his lunch break.<sup>36</sup> The OIG also learned that Heidari communicated with a representative of Mero's insurance company on January 12, 2010 during the workday. A review of Heidari's leave records for that day show that Heidari took five (5) hours of sick leave.<sup>37</sup>

### **Rangel v. Araim – Fulton County Superior Court**

Court documents reflect that on July 14, 2009, Heidari and Plank filed an answer and counterclaim on behalf of their client, Omar Araim, in Fulton County Superior Court. Although there were numerous court hearings scheduled, the OIG found no evidence of Heidari or Plank appearing in court on those dates. However, the OIG did find that on September 25, 2009, during his scheduled telework day, Heidari met with opposing counsel, Gregory Jay, in Buford, Georgia<sup>38</sup> at 1:30 pm for 90 minutes.<sup>39</sup> Leave records do not reflect Heidari taking leave on this day.

During his interview, Heidari could not recall meeting with Jay on September 25, 2009, but stated "it [was] a possibility." When presented with Jay's calendar indicating that they met on that day, Heidari still could not recall the meeting, but believed Delgado attended. However, he stated that if he had attended the meeting with Jay, it was likely that he had already completed his forty-hour workweek and did not need to take leave.<sup>40</sup>

According to Thompson, if his employees completed their workweek before the end of the week, he would have allowed them take the rest of the week off. When presented with information indicating that Heidari met with opposing counsel on his telework day, Thompson stated if he had known he would have required Heidari to take annual leave.

Jay informed the OIG that he was aware of the allegations against Heidari because he was copied via email on the initial complaint filed with the OIG. Prior to receiving the email, he was not aware that Heidari was a state employee. Jay also stated that prior to receiving the email, he always communicated with Heidari about the case, but after their meeting, he began working with Delgado.

Jay also provided the OIG with email messages between him and Heidari dating back to June 2009. Two of the messages were sent during normal work hours - one on Monday, September 21, 2009 at 4:09 p.m. and the other on Thursday, September 10

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<sup>35</sup> Heidari entered the building at 8:37 a.m. and remained in the building as late as 6:38 p.m.

<sup>36</sup> See Heidari transcript pg. 37, lines 1-21

<sup>37</sup> According to the representative, Heidari called from the same number listed in his contact information on his firm's website.

<sup>38</sup> Jay's office is approximately 35 miles from Heidari's telework location.

<sup>39</sup> See Exhibit 10 for a copy of opposing counsel's calendar for September 25, 2009.

<sup>40</sup> See Heidari transcript, pgs. 27-30.

(Heidari's telework day)<sup>41</sup> at 10:46 a.m.<sup>42</sup> A review of Heidari's leave records reflect that he was not on leave status either day.

### **State v. Corrina Dragiti - Fulton County Superior Court**

Court records reflect that on Friday, December 18, 2009, Heidari was scheduled to appear in Fulton County Superior Court on behalf of his client, Corrina Dragiti.<sup>43</sup> Court documents also reflect that Heidari executed an agreement on behalf of his client on that day.<sup>44</sup> According to calendar clerk, Eric Owens, although the calendar reflects a 9:00 a.m. start time, court session typically begins at 9:30 a.m. and ends at approximately 11:30 a.m./12:00 p.m. A review of Heidari's access records for that day shows that he entered the parking facility at 12:23 p.m. and entered his office at 12:29 p.m. Additionally, his leave records show that Heidari took 3.5 hours of sick leave on that day.

### **Fifth Third Bank v. Apalachee Village – Gwinnett County Superior Court**

Court records reflect that Heidari and Plank filed an answer on behalf of their client, Omar Araim, in the Superior Court of Gwinnett County on June 12, 2009. Although numerous hearings were scheduled in this case, the OIG found no evidence that Heidari or Plank appeared in court on those days. The OIG did find, however, that Heidari communicated with Matthew Benson, an attorney for one of the co-defendants in the lawsuit, during his normal work hours.

Benson informed the OIG that he received email messages from Heidari's firm email address during the workday and provided the dates and times of receipt. Benson also stated that he communicated only with Heidari regarding the lawsuit. Of the dates and times provided, four of the messages appear to have been sent during Heidari's normal work hours. Two of the four messages appeared to have been sent on a telework day and the other two were sent on days that Heidari took sick and/or annual leave. See Table #1 below for a detailed list of the email messages sent by Heidari.

***Table #1***

<b>Day</b>	<b>Date</b>	<b>Time</b>	<b>Timesheets/Building Access Records</b>
Thursday	8/13/2009	9:17 AM	Telework day
Thursday	8/13/2009	4:00 PM	Telework day
Tuesday	12/22/2009	12:14 PM	Four hours of sick leave and Four hours of annual leave
Tuesday	3/2/2010	11:47 AM	Eight hours sick leave

<sup>41</sup> Heidari's building access and leave records show that Heidari never entered the building on September 10, which would be indicative of a telework day.

<sup>42</sup> See Exhibit 11 for a copy of the email sent by Heidari on September 10 and September 21

<sup>43</sup> See Exhibit 12 for copy of the Fulton County Complaint Room Preliminary Hearings Calendar dated Friday, December 18, 2009, which lists Heidari as the attorney of record.

<sup>44</sup> See Exhibit 13 for a copy of the Alternative Choices Pre-Trial Intervention and Dead Docket Order dated December 18, 2009 and signed by Heidari.

### **Carter v. Von Hubbard - Fulton County Superior Court**

Court records reflect that on September 30, 2009, Heidari filed a complaint on behalf of his client, Patricia Carter, in the Superior Court of Fulton County. On February 9, 2010 at 2:45 p.m., Heidari appeared before Fulton County Superior Court Judge Craig Schwall for a civil status conference. Heidari's leave records show he took two hours of sick leave on that day.

When questioned about his use of sick leave to attend court, Heidari stated that although the leave grid only showed him taking sick leave on that day, he also took three hours of furlough, which he used to attend the hearing. Heidari stated that even if he did not take furlough, he did not think it would have been an issue because he worked flexible hours and the hearing was only fifteen minutes long.<sup>45</sup>

After the interview, Heidari provided the OIG with an email message sent to Plank at 4:04 a.m. on the day of his hearing. In his email, Heidari informs Plank that he needs to take two hours of sick leave that morning in addition to the three hours of furlough later that afternoon. Additionally, Plank's executive assistant provided the OIG with a copy of the SEC's intranet calendar showing that Heidari was scheduled for three hours of furlough and two hours of sick leave on that day.

The OIG interviewed Elaine Deal, SOS Human Resources Coordinator, who was responsible for processing the SEC's furloughs. She stated that no furlough deductions had been processed for Heidari since 2009. According to Deal, she would send an email every month in advance to the attached agencies asking whether they had any employees taking furlough during the following pay cycle. Once she received the agency's response, she would complete a form and forwarded it to the accounting department for processing during the following pay cycle. If an agency did not send the information to her in a timely manner, the SOS could still deduct the furlough hours in the following pay cycle.

Deal provided the OIG with an email sent from Plank on February 9, 2010 at 9:11 a.m. in which he inquired if it was too late to have employees take furlough for the pay cycle. She informed Plank that he needed to respond with the employees' names before noon in order to process the request, but Plank missed the deadline.<sup>46</sup> In a follow up interview with Deal on April 6, 2010, she informed the OIG that Heidari's three hours of furlough were never deducted from his paycheck, and Plank never followed up with her regarding Heidari's furlough hours.

### **Valdez v. Martinez – Fulton County Superior Court**

Court documents reflect that on December 14, 2009, Plank and Heidari filed a complaint in Fulton County Superior Court on behalf of their client, Lyshia Valdez. On January 27, 2010, Plank appeared before Fulton County Superior Court Judge Gail Tusan for a scheduling conference at 1:30 p.m. Plank did not take any leave on that

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<sup>45</sup> See Heidari transcript, pgs. 25-26.

<sup>46</sup> See Exhibit 14 for a copy of the email from Plank to Deal.

day. When questioned about his appearance, Plank stated he was helping a family friend and that he attended the hearing on his lunch break. In addition, he stated that it was not an actual hearing since the defendant in the case had not been served notice of the lawsuit.

### **Negash v. Staley – Douglas County State Court**

Court records reflect that on September 29, 2009, Plank filed an entry of appearance and a motion for continuance on behalf of his client, Bizuayehu Negash, in the State Court of Douglas County. According to Anita Grainger, Deputy Clerk with the Douglas County State Court Clerk's office, documents must be either filed in person or mailed. If mailed, it is their practice to scan the envelopes and include it in the file. Grainger stated that attached to the entry of appearance and the motion for continuance was a Heidari & Plank LLC business card, which indicates that these documents were hand delivered on September 29, 2010. Records reflect that Plank did not take any leave on that day. However, Heidari's leave records indicate he took four hours of sick leave on September 29. A review of his access records shows that Mr. Heidari entered the state parking facility at 11:31 a.m. and entered the building at 11:47 a.m.

According to opposing counsel, Dale Ellis, he received an entry of appearance from Plank sometime in September of 2009. Ellis recalled speaking to Plank two or three times between the hours of 9 a.m. and 5 p.m., most recently in January 2010.<sup>47</sup> Because the number from which Plank called was not a local number, Ellis checked the online Georgia Bar Directory to ensure that Plank was licensed in Georgia. He also checked the Georgia Bar book, which listed Plank as an employee with the SEC.

### **Legal Blogs**

In addition to the law blog identified in the complaint (AVVO)<sup>48</sup>, the OIG discovered that both Heidari and Plank maintained lawyer profiles on LawGuru.com, a free lawyer directory that contains ratings and profiles of attorneys. Both websites also provide a forum for attorneys to answer questions posted by individuals seeking answers to legal problems. A query of LawGuru's "answered questions" databank revealed that legal questions were answered on both Heidari and Plank's accounts during their normal SEC work hours.<sup>49</sup> Nearly all their answers were followed by contact information for their firm.

Heidari and Plank denied responding to legal questions during their normal work hours. When presented with evidence indicating otherwise, Heidari responded, "The best assumption that I can give is that Ms. Delgado obviously responded."<sup>50</sup> Plank also stated it was possible that Delgado responded to the questions.

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<sup>47</sup> He recalled that Plank called him from a 202 area code. Plank's mobile telephone number has a 202 area code.

<sup>48</sup> See AVVO website.

<sup>49</sup> [http://www.lawguru.com/answers/atty\\_profile/view\\_attorney\\_profile/tplank](http://www.lawguru.com/answers/atty_profile/view_attorney_profile/tplank);  
[http://www.lawguru.com/answers/atty\\_profile/view\\_attorney\\_profile/yasha](http://www.lawguru.com/answers/atty_profile/view_attorney_profile/yasha)

<sup>50</sup> See Heidari transcript pg. 21, Line 17-20; See Plank transcript pg. 83, Line 2



## 2. Misuse of State Resources

The Georgia Technology Authority informed the OIG that neither Heidari nor Plank had state-issued mobile devices, but had state issued desktop computers.<sup>51</sup> The OIG analyzed their state computer hard drives and found no saved documents associated with their private law practice. However, SEC staff, including Heidari, informed the OIG that Plank occasionally brought his personal laptop to work. The OIG questioned Plank about bringing his personal computer to work given that he had an assigned desktop computer. Plank stated that he would sometimes use his personal computer at lunch since the office had free wireless internet. Additionally, Plank denied using his personal computer to work on matters pertaining to his private law practice during his normal work hours at the SEC.

An analysis conducted of the internet history on Heidari and Plank's state computers revealed that they used their state computers to research various courts and information on parties involved with their cases. For example, the OIG obtained a document retrieved by Heidari from his personal Google account, which contained contact information for the defendant in the *Carter v. Von Hubbard* matter.<sup>52</sup>

A review of Heidari and Plank's SEC email accounts revealed one instance of Heidari receiving an email related to his private law practice. The email message appears to have been forwarded to Heidari's SEC email address from one of his personal email addresses at 12:54 p.m. on September 23, 2009.<sup>53</sup> Attached to the email was a draft copy of the complaint filed in the *Carter v. Von Hubbard* matter, which he previously sent to his client for review.<sup>54</sup> Heidari stated that he was surprised when he received the email and claimed that Delgado accidentally forwarded it to his SEC email address from his personal email address. Heidari was adamant that he never worked on the document on his state computer. A review of Heidari's SEC email messages did not reveal any instances of Delgado using Heidari's personal email account to communicate with him at work.

During the course of the investigation, Jennifer Ward, former Human Resources and Budget Coordinator for the SEC, informed the OIG that both Heidari and Plank had access to the SEC's LexisNexis<sup>55</sup> account to conduct legal research.<sup>56</sup> Ward stated that when she cancelled the LexisNexis account due to budget constraints, Thompson informed her that Heidari and Plank wanted to know if there was any way they could keep the service. Thompson confirmed that Heidari and Plank relayed to him that it was a bad idea to cancel the LexisNexis contract.

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<sup>51</sup> Several SEC employees informed the OIG that Heidari and Plank frequently used their personal cell phones. However, the OIG does not have authority to request private cell phone records.

<sup>52</sup> See Exhibit 15 for a copy of the document Heidari retrieved from his Google account.

<sup>53</sup> See Exhibit 16 for a copy of the email forwarded to his SEC email address.

<sup>54</sup> The complaint was filed in the Fulton County Superior Court on September 30, 2009.

<sup>55</sup> LexisNexis offers subscriptions to an electronic research service to "professionals in the legal, risk management, corporate, government, law enforcement, accounting, and academic markets."

<sup>56</sup> Heidari and Plank had access to LexisNexis through August 31, 2009. They both had separate LexisNexis user accounts.

The OIG requested that LexisNexis provide all queries conducted by Heidari and Plank from January 2009 through August 2009. A review of Plank's LexisNexis queries revealed that he accessed the SEC's LexisNexis account using external sources, other than his state computer, during and after normal work hours. Although the OIG found that many of their queries related to their duties at the SEC, others appeared to be irrelevant to SEC matters. The OIG found that some of their searches appeared to be relevant to the services offered by their firm.<sup>57</sup>

Heidari's queries included, but were not limited to the following search criteria:<sup>58</sup>

- |                      |                               |
|----------------------|-------------------------------|
| • Malpractice        | • Trade Name                  |
| • Child Support      | • Robbery                     |
| • Restraining Order  | • Toxic Mold                  |
| • Attorney's Fees    | • Medical Malpractice         |
| • Death Legal Excuse | • Necessity and Justification |

Plank's queries included, but were not limited to the following search criteria:<sup>59</sup>

- |                         |                             |
|-------------------------|-----------------------------|
| • Intellectual Property | • Child Support             |
| • Child Custody         | • Deprivation of Minors     |
| • Trade Name            | • Contractor Lien Foreclose |
| • Overstayed Visa       | • Adjustment of Status      |
| • Emotional Distress    | • Concealed Weapon Permit   |

During his interview, Heidari contended that his LexisNexis research was related to SEC matters.<sup>60</sup> However, when presented with copies of his search terms, he admitted that a couple of his searches were personal and that he was unsure about the others. When asked to explain how researching "death" and "legal excuse" related to his cases at the SEC, Heidari stated, "People have to file these personal financial disclosure statements. There's a big issue what happens when they die."<sup>61</sup> Heidari informed the OIG that the SEC cancelled its LexisNexis contract before he began working on any cases for his firm. However, the OIG found that Heidari filed three of his seven cases in court before the SEC's contract with LexisNexis expired. Heidari told the OIG that he used Casemaker, a free service on the Georgia Bar website, to research cases for his private clients.

Plank admitted to the OIG that a couple of his searches were personal and the others were related to his job at the SEC.<sup>62</sup> Because Plank was currently representing a client on a child support matter in Fulton County Superior Court, the OIG questioned Plank about his LexisNexis searches dealing with child support, child deprivation and child custody issues. Plank informed the OIG that he never dealt with any cases at the

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<sup>57</sup> Heidari and Plank's website lists their practice areas, which include civil litigation, entertainment law, immigration, regulatory law, and transactional/business law. Within each practice area, the website includes many subcategories in which they specialize. See <http://www.heidariplank.com/practice>.

<sup>58</sup> See Exhibit 17 for a complete list of Heidari's LexisNexis search criteria.

<sup>59</sup> See Exhibit 18 for a complete list of Plank's LexisNexis search criteria.

<sup>60</sup> See Heidari transcript pgs. 16-20 for answers pertaining to his LexisNexis searches.

<sup>61</sup> See Heidari transcript pg. 17, lines 9-11.

<sup>62</sup> See Plank transcript pgs. 59-65 for his answers pertaining to his LexisNexis searches.

SEC dealing with child deprivation. However, the reason he researched so many child support cases was because the SEC had a jurisdictional issue regarding out-of-state entities. "Child support is one of the best places to look up personal jurisdiction. It has the most case law," Plank stated.<sup>63</sup>

In order to verify whether Heidari and Plank's queries were related to their cases, the OIG interviewed former Deputy Executive Secretary, Kay Baker, who was also an attorney for the SEC. Baker supervised Heidari and Plank for one year and two years, respectively. According to Baker, since the SEC's jurisdiction was limited to financial disclosure, lobbyist registration and campaign contributions, researching anything outside of those areas would be considered abnormal. Baker also stated that the SEC did not have a significant need for LexisNexis because most of the cases were fact based.

When questioned specifically about Heidari and Plank's queries, Baker stated that, to her knowledge, the SEC never worked a case that involved medical malpractice, child support, child deprivation, immigration, emotional distress, concealed weapon permit, homeowner association, trade name, etc. In fact, Baker stated that she could not imagine a scenario in which these topics would arise, and "that it would be a stretch for the topics to be relevant."

SPA's policy on outside employment prohibits employees from using the state's time, equipment, or other resources in pursuing outside business activities. The OIG finds that Heidari and Plank misused state time by making court appearances while failing to take appropriate leave, and by communicating with opposing counsel and other parties affiliated with their cases during their normal work hours and while on telework status. The OIG also finds that Heidari and Plank misused the state's resources in pursuing their outside business activities by using their state computers to research various courts and parties affiliated with their cases, and by using the SEC's LexisNexis account to research topics that appeared to be related to the services offered by their firm. Additionally, because Heidari and Plank claimed to be working for the State during the same time they were working on firm matters, they violated SPA Rule 7 478-1-07(3)(a)1, which prohibits them from engaging in any concurrent employment that interferes with the time and attention that should be devoted to State employment.

**Based on the documents reviewed and the interviews conducted, the OIG finds that the allegation that Heidari and Plank used the state's time, equipment, or other resources in pursuing outside business activities is substantiated.**

***Allegation: Heidari and Plank misuses their influence as SEC employees by representing private clients against state agencies in Administrative Procedure Act Hearings.***

According to the Complainant, Heidari and Plank represent on their website that they specialize in governmental and administrative law and are available to litigate Administrative Procedure Act hearings. Given that the SEC handles violations of

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<sup>63</sup> See Plank transcript pg. 64 lines 3-7.

campaign finance laws in Administrative Procedure Act Hearings, the Complainant claims that this is a conflict of interest. The OIG found no evidence indicating that Heidari and Plank represented private clients before of the Office of Administrative Hearings.

**Based on the documents reviewed and the interviews conducted, the OIG is unable to substantiate the allegation that Heidari and Plank misused their influence as SEC employees by representing private clients against state agencies in Administrative Procedure Act Hearings.**

#### **IV. OTHER INVESTIGATIVE FINDINGS**

##### **A. Misuse of Sick Leave**

During the course of our investigation, the OIG discovered that Heidari and Plank used a considerable amount of sick leave in comparison to other SEC employees. The OIG also found that Heidari and Plank's sick leave balances were consistently lower than their annual leave balances. Given that Heidari and Plank were engaged in outside employment, their low sick balances raised a red flag for potential sick leave abuse.

The OIG interviewed Ward, who prepared the SEC's leave grids through November 2009, regarding these issues. Ward informed the OIG she was aware that Heidari and Plank were using a significant amount of sick leave and alerted Thompson to this fact prior to his resignation in October 2009. According to Ward, Thompson did not address the matter. Additionally, Baker informed the OIG that Heidari frequently circumvented the leave reporting process by requesting leave directly from Thompson. She discussed the matter with Thompson but he did not rectify the situation.

The OIG also interviewed Plank's former secretary, Kali Schlieder, who prepared the leave grids after Ward left, regarding Plank's leave usage. According to Schlieder, Plank was frequently out of the office. She stated that Plank never recorded his scheduled absences on his calendar or notified her when he planned to be out of the office. On the days that he did not come into the office, Schlieder would record that Plank was out on annual leave. However, Plank would sometimes instruct her to change the leave grid to reflect that he was actually out on sick leave. Schlieder recalled that at one point Plank depleted his sick leave balance to ten (10) hours.<sup>64</sup>

During his interview, Thompson informed the OIG that if his employees needed to take sick leave they would send him or their supervisor an email requesting permission to take leave. According to Thompson, he did not ask why an employee needed to take sick leave. Thompson further stated that he personally did not care whether his employees used sick or annual leave because if "they're not in the office, they're not in the office. It's all the same to me." In fact, Thompson stated that during his time as Executive Director, he never concerned himself with whether someone was taking sick

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<sup>64</sup> See Kali Schlieder Memorandum of Record dated April 15, 2010.

leave or not. He was, however, aware of SPA's policy requiring employees to submit a doctor's excuse if they were out for more than three consecutive days.<sup>65</sup>

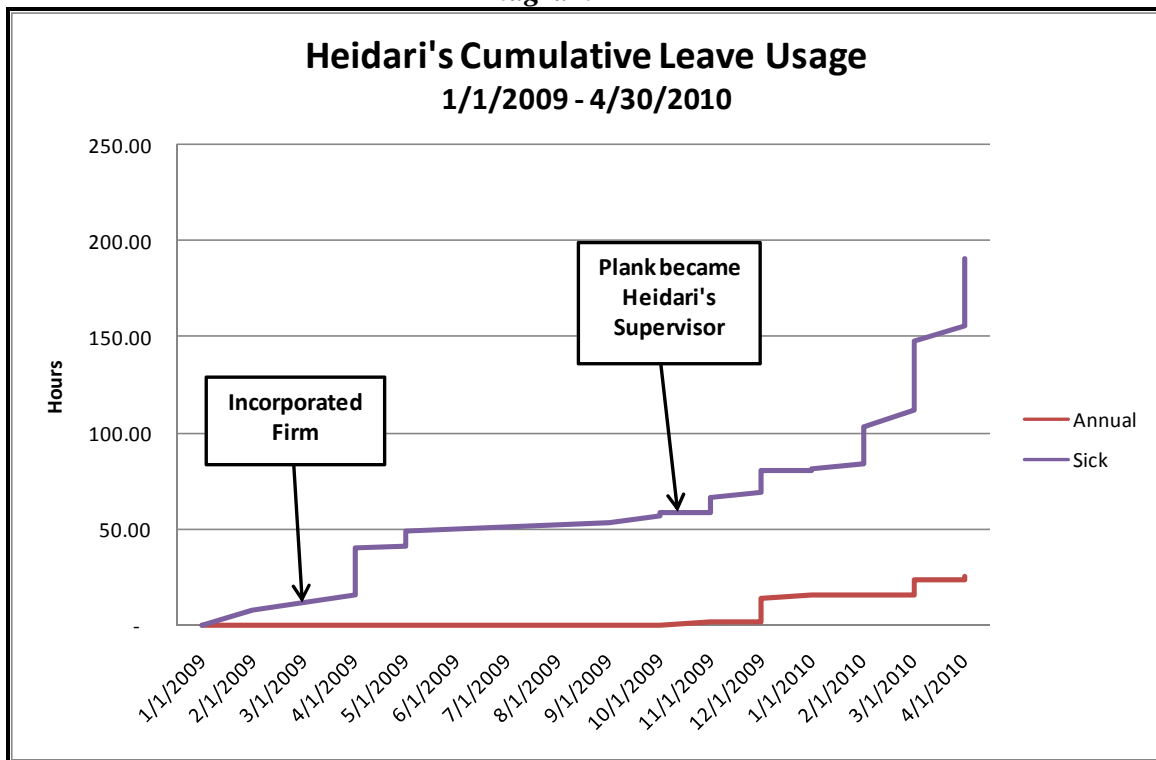
The OIG cannot distinguish on which dates Heidari and Plank used their sick leave legitimately, but can only assess their patterns of sick leave usage based on their official leave records submitted to the SOS and through the use of PeopleSoft records.<sup>66</sup> Additionally, the OIG reviewed Heidari and Plank's personnel files at the SOS's human resources office. Their files did not contain any documentation pertaining to medical reasons for absence.

The OIG reviewed Heidari's leave records from June 2008, the month he was hired, through April 19, 2010, the day he resigned. Our review revealed the following:

- From June 2008 to December 2008, Heidari used approximately 20 hours of sick leave and 36 hours of annual leave;
- In 2009, Heidari used 81 hours of sick leave and 14 hours of annual leave; and
- From January 2010 until his resignation, Heidari used 110 hours of sick leave and 11.75 hours of annual leave. Of the 110 hours used, Heidari used 87.25 hours of sick leave in March and April combined in two, four, and eight hour increments on nonconsecutive days.

See Diagram #1 below for a graphical illustration of Heidari's sick and annual leave usage from January 2009 through April 2010.

**Diagram #1**



<sup>65</sup> See Thompson transcript pgs. 16-19.

<sup>66</sup> The SOS could not find the time sheets for the second pay period in February 2009. However, the OIG obtained these records via the PeopleSoft accounting system.

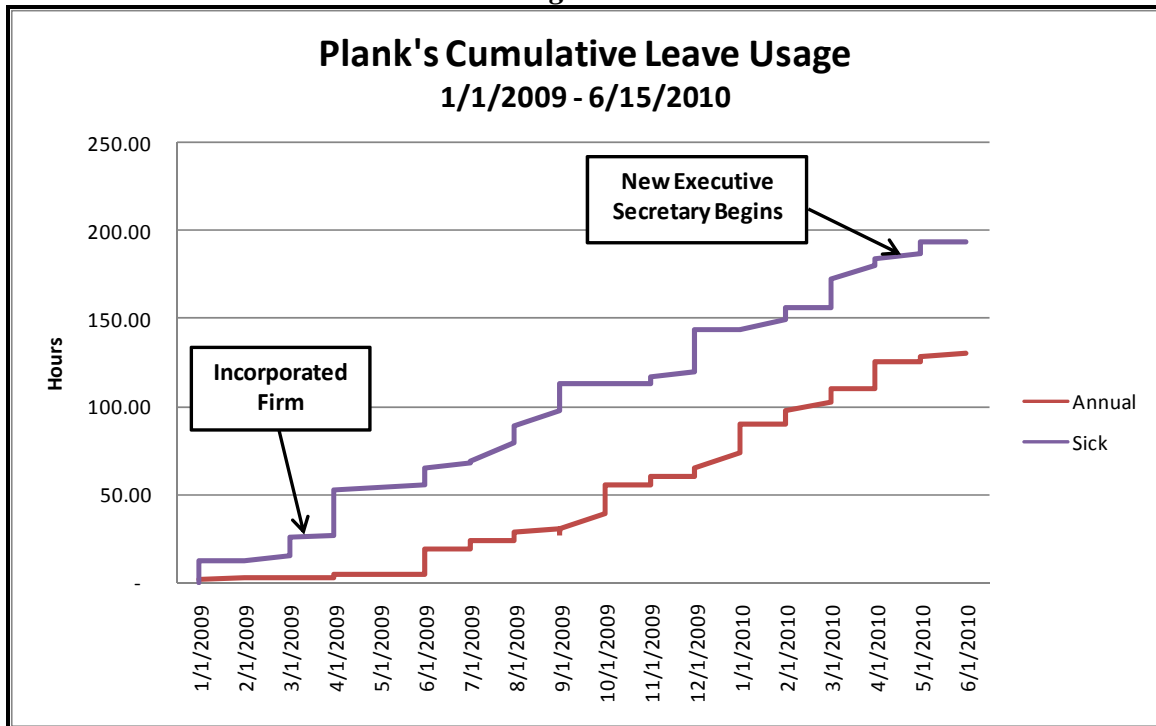
Between the time Plank became his supervisor on October 16, 2009 and the date of his resignation, Heidari used 137.75 hours of sick leave. In fact, Heidari's leave usage increased by 158% in comparison to his leave usage between January 2009 and October 15, 2009. Heidari reduced his sick leave balance to approximately nine hours before resigning on April 19, 2010. Records also reflect that Heidari took sick leave every day during the new Executive Secretary's first week in office.<sup>67</sup> SOS records reflect that upon resigning, Heidari received \$4,622.60 as payment for his accrued annual leave.<sup>68</sup>

Plank's leave records from 2007 to 2010 reflect the following:

- In 2007, Plank used 45.5 hours of sick leave and 32 hours of annual leave;
- In 2008, Plank used 135 hours of sick leave and 84.75 hours of annual leave;
- In 2009, Plank used 143.75 hours of sick leave and 65.75 hours of annual leave; and
- From June 15, 2010, Plank has taken 50 hours of sick leave and 65 hours of annual leave.

See Diagram #2 for a graphical illustration of Plank's sick and annual leave usage from January 2009 through June 2010.

**Diagram #2**



<sup>67</sup> Kalberman took office on Monday, April 12, 2010.

<sup>68</sup> State employees receive payment for accrued annual leave after exiting state service. However, employees do not receive payment for sick leave.

Plank used 143.75 hours of sick leave in 2009, 23.75 hours above the 120 hours accrued by state employees of his tenure. A reconciliation of PeopleSoft records and SEC leave grids reflects that the day before his appointment to the Acting Executive Secretary position, Plank's sick leave balance was 1.25 hours and his annual leave balance was 137.25 hours.

Documents revealed that Plank used his sick leave nearly as fast as it accrued, which resulted in his sick leave balance remaining low. As of June 15, 2010, his sick leave balance was 0.75 hours. Additionally, the OIG found that Plank's sick leave balances remained lower than his annual leave balances in both 2008 and 2009. However, since January 2010, Mr. Plank has been using more annual leave than sick leave.

As Heidari's supervisor, Plank approved his leave grids and leave requests from October 16, 2009 through April 12, 2010. When presented with information that Heidari used sick leave to attend court on December 18, 2009, Plank stated that he could not recall Heidari requesting leave on that day; however, Heidari may have sent an email requesting leave for that day.<sup>69</sup> Although Plank was aware of the state's sick leave policy, he stated that he did not question his employees about their use of sick leave.

SPA Rule 478-1-16 (7) (b) provides that, upon approval of the agency, an employee may use accrued sick leave for any absence due to the following:

1. Personal illness or disability;
2. Adoption of a child by the employee where the employee's presence is required for health-related reasons;
3. Dental or medical care;
4. Illness or accident, in the employee's immediate family which requires the employee's presence;
5. Death in the employee's immediate family which requires the employee's presence; or
6. Exposure to a contagious disease, which may reasonably expose other co-workers and endanger their health by being present at work.

Additionally, SPA defines excessive use or abusive use of sick leave as being a pattern of recurring, short-term use of sick leave. Examples provided by the policy include the following:

1. Frequently using more than 17 hours of sick leave within a 30-day period;
2. Requesting sick leave for an absence for which annual leave has been denied;
3. Frequently using sick leave in connection with holidays, weekends, schedules days off, or paydays;
4. Frequently using sick leave when you are scheduled for undesirable, temporary shifts or assignments, or during periods of peak workloads;
5. Frequently leaving work during the day due to illness; and

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<sup>69</sup> Plank never provided the OIG with any emails on this matter.

## 6. Using peculiar or improbable excuses.

The OIG found no provision in the rules that allows for the use of sick leave in lieu of annual leave.

According to John Jurkiewicz, Human Resources Director for the SOS, it is unusual for employees' sick leave balances to be lower than their annual leave balances. He stated that it was also unusual to take both sick leave and furlough on the same day. Upon presenting him with our findings regarding Heidari and Plank's leave usage in 2009 and 2010, Jurkiewicz stated that Heidari's sick leave usage appears to have been in violation of state policy. Jurkiewicz also pointed out that both Heidari and Plank's leave usage patterns raised red flags indicating potential sick leave abuse.

The OIG concurs with Jurkiewicz and finds that Heidari and Plank's sick leave usage fits the pattern of abuse of sick leave based on the aforementioned findings. Although the OIG concedes that there are many reasons why a supervisor would not question an employee's use of sick leave, the OIG finds that Thompson should have scrutinized Heidari and Plank's sick leave usage after Ward notified him of potential abuse in 2009. Thompson's position that sick and annual leave could be used interchangeably was inconsistent with State policy and provided opportunities for sick leave abuse. The OIG also finds that Plank's supervision of his law partner, to include signing his leave records, substantially conflicted with Plank's ability to supervise Heidari.

### B. Conflict of Interest

While analyzing the internet history on Heidari's state computer, the OIG found that he accessed the Augusta Clerk of Courts website. The OIG contacted the Richmond County Clerk's Office and requested that court personnel run an attorney search on both Heidari and Plank. The query identified one case, *Bright Ideas Consulting, Inc. v. Resource Associates of Nevada*, in which Heidari and Plank were listed as attorneys of record for the Plaintiff. Court documents reflect that on October 5, 2009, Heidari and Plank filed a complaint on behalf of their client, Bright Ideas Consulting, Inc. (BIC), in Richmond County Superior Court.<sup>70</sup> As recently as May 4, 2010, Plank filed court pleadings in this matter.<sup>71</sup>

An internet search revealed that the Chief Executive Officer of BIC is Charles (Champ) W. Walker Jr.<sup>72</sup> According to its website, BIC offers business development, lobbying, matching, venture capital, and alliances marketing consulting services.<sup>73</sup> A document found on BIC's website states, "Bright Ideas business development and lobbying team have intellectual capital, management skills, and relationships with

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<sup>70</sup> Heidari and Plank filed the original complaint in this case on October 5, 2009, a few days prior to ensuring the former Chairman Jordan in an email that they "will never take on any clients that will create a conflict of interest."

<sup>71</sup> See <http://coc.augustaga.gov> and enter case number 2009RCCV01332.

<sup>72</sup> See <http://corp.sos.state.ga.us/corp/soskb/Corp.asp?69170>.

<sup>73</sup> See <http://brightideasfirm.com/HOME.html>.



corporations and governmental entities.”<sup>74</sup> On a professional social networking site, Walker includes lobbying as one of his specialties.<sup>75</sup> The OIG found that neither Walker nor BIC was listed in the SEC’s lobbyist directory.

SPA Rule 7 on Conflict of Interest requires that, “employees must avoid employment activities and/or relationships that actually conflict or could conflict with the State’s interest; create a perception of impropriety; or adversely affect the State’s or the employing agency’s reputation.” Additionally, the Governor’s Executive Order on Ethics states that, “State employees must avoid any conduct, whether in the context of business, financial, or social relationships, which might undermine the public trust, whether that conduct is unethical or lends itself to the appearance of ethical impropriety.” Heidari and Plank’s duties at the SEC require them to regulate lobbying activities. By representing a company that claims to offer lobbying services, Heidari and Plank create an appearance of impropriety.

## **V. CONCLUSION**

State policy does not prohibit state employees from engaging in outside employment. Prior to engaging in outside employment, however, state policy requires state employees to follow specific guidelines to facilitate complete transparency with their employing agency and the public to avoid even the appearance of impropriety. It is imperative that state employees seek approval from their supervisors prior to taking affirmative steps to engage in outside employment. Additionally, supervisors should fully understand the nature and demands of the external business activities to ensure that the outside employment does not conflict, or appear to conflict, with their employees’ obligation to the state. It is also imperative that all parties involved discuss acceptable parameters for outside employment, such as core business hours and applicable leave policy, to identify what constitutes unacceptable behavior. Failure to establish such parameters prior to engaging in outside employment can result in a lack of understanding of the rules and can ultimately lead to actual or perceived abuse.

The facts discovered during this investigation illustrate the problems and ramifications that can result if the employee and the agency do not discuss, understand and agree to the nature and terms of the outside employment. The investigation also reveals that engaging in the private practice of law while also serving in a legal capacity for a state agency raises additional concerns. The unique nature of a full-service law practice does not allow for the limited time restrictions generally involved with permissible outside employment because the practice of law is typically conducted during normal business hours. As a result, state agencies should establish specific parameters on outside employment and diligently monitor their employees who seek to engage in outside legal practices.

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<sup>74</sup> See [http://brightideasfirm.com/BUSINESS\\_DEVELOPMENT.html](http://brightideasfirm.com/BUSINESS_DEVELOPMENT.html).

<sup>75</sup> See <http://www.linkedin.com/pub/charles-%22-champ%22-walker-jr/a/705/89b>.

## **VI. RECOMMENDATIONS**

The OIG offers the following recommendations to the State Ethics Commission. The OIG requests that the SEC provide a written response regarding implementation of these recommendations within 30 days of the issuance of this report.

1. The SEC should implement a policy on Outside Employment, to include requiring all employees contemplating outside employment to submit a “Request for Outside Employment” form to the Executive Secretary prior to engaging in outside employment. All documentation should be included in the employees’ official personnel files.
2. The SEC Board, in consultation with the Executive Secretary, should send a reminder to all SEC employees advising that SEC resources and time may not be used to support private businesses, providing specific examples of prohibited activities, and discussing the possible disciplinary actions that may result from such conduct.
3. The Executive Secretary should frequently monitor sick leave usage to identify potential patterns of abuse. If abuse is determined to have occurred, corrective action should be taken and documented in the employees’ personnel files.

## Exhibit 1

**From:** Citizen Pain [citizenpain@rocketmail.com]  
**Sent:** Monday, October 12, 2009 2:29 PM  
**To:** CassandraLawson@dij.state.ga.us; jtruslow@gsu.edu; dvon@homecoastcapital.com; gjay@cbjblawfirm.com; jgalloway@ajc.com; asheinin@ajc.com; cmcwhirter@ajc.com; apeters@alm.com; gland@alm.com; mhobbs@alm.com; Editor@beaconcast.com; richard.belcher@wsbtv.com; wendy.saltzman@cbsatlanta.com; scott.slade@coxrado.com; mattcook@640wgst.com; jwright@northfulton.com; stephanieramage@sundaypaper.com; atlanta@bizjournals.com; rhines@usnation.net; jgillooly@mdjonline.com; j.d.sumner@albanyherald.com; jimmyespy@daltoncitizen.com; tfain@macon.com; blong@wmgmt.com; jdailey@wtoc.com; larry.peterson@savannahnow.com; erin.hughes@onlineathens.com; kay.harris@gafnews.com; General, Inspector; JBelinfante@gov.state.ga.us; SPerdue@gov.state.ga.us  
**Subject:** Unethical behavior at the State Ethics Commission  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

### Unethical behavior at the State Ethics Commission

Can two full-time employees of the State Ethics Commission be practicing attorneys in private practice at the same time that they are employed by the State? The Code of Ethics for Government Service clearly states the answer to this question is "no." The Code, which can be found at O.C.G.A. § 45-10-1, states that an employee is to "give a full day's labor for a full day's pay." The Georgia Attorney General has stated that "a state employee who contracts to perform separate duties for a non-state entity during the same work time can not provide a full day's work to the state" in part of an unofficial opinion issued in 1998.

In spite of this, two full-time employees of the State Ethics Commission are engaged in the private practice of law. Tom Plank and Yasha Heidari are listed on the State Ethics Commission's website as members of the Investigations & Enforcement Unit. At the same time, these two state employees have opened their own law firm of Heidari & Plank, which has a website presence at <http://www.heidariplank.com/>.

Last Thursday, when Mr. Heidari would have been expected to be at work at the State Ethics Commission, he was scheduled to be the defense attorney at a status conference in the case of Rangel v. Aram in Fulton County Superior Court.

How is it possible for the State Ethics Commission to allow two of its full-time employees to represent private clients during the same hours of the day that these employees are supposed to be on the clock for the State? In this time of budget crisis, it appears that these two employees should be returning money to the state taxpayers for the time they were working for their private law firm. This is a classic example of fraud, waste, and abuse in state government.

It is also a classic example of unethical conduct. The State Ethics Commission website mentions that violations of campaign finance law are handled in Administrative Procedure Act hearings. Mr. Plank and Mr. Heidari list on their law firm's website that they specialize in governmental and administrative law, and are available to litigate Administrative Procedure Act hearings. As attorneys, Mr. Plank and Mr. Heidari are ethically bound to avoid even the appearance of impropriety. Wouldn't a member of the public believe that Mr. Plank and Mr. Heidari are using their influence as government employees in the Investigations & Enforcement Unit of the State Ethics Commission when they are representing private clients against a state agency in an Administrative Procedure Act hearing? How can it not be seen as influence peddling when an employee of the State Ethics Commission practices in the area of governmental law for a private client and attempts to influence the official action of some part of government?

On October 15, the State Ethics Commission is expected to pick its next Executive Secretary. Perhaps the first place that this new leader should look to rid the State of unethical conduct is within the agency itself.

**From:** Citizen Pain [citizenpain@rocketmail.com]  
**Sent:** Friday, October 16, 2009 12:33 PM  
**To:** CassandraLawson@djj.state.ga.us; jtruslow@gsu.edu; dvon@homecoastcapital.com; gjay@cbjblawfirm.com; jgalloway@ajc.com; asheinin@ajc.com; cmcwhirter@ajc.com; apeters@alm.com; gland@alm.com; mhobbs@alm.com; Editor@beaconcast.com; richard.belcher@wsbtv.com; wendy.saltzman@cbsatlanta.com; scott.slade@coxradi.com; mattcook@640wgst.com; jwright@northfulton.com; stephanieramage@sundaypaper.com; atlanta@bizjournals.com; rhines@usnation.net; jgillooly@mdjonline.com; j.d.sumner@albanyherald.com; jimmyespy@daltoncitizen.com; tfain@macon.com; blong@wmgmt.com; jdailey@wtoc.com; larry.peterson@savannahnow.com; erin.hughes@onlineathens.com; kay.harris@gafnews.com; General, Inspector; JBelinfante@gov.state.ga.us; SPerdue@gov.state.ga.us  
**Subject:** Employee engaged in unethical behavior at the State Ethics Commission named interim executive secretary

## **Employee engaged in unethical behavior at the State Ethics Commission named interim executive secretary**

In disregard for state law, the State Ethics Commission named Tom Plank, full-time Commission employee as well as the managing partner of the law firm of Heidari & Plank, as its interim executive secretary.

Based on his appointment to a position as a public official, Mr. Plank is now acting in violation of O.C.G.A. § 45-10-22. The statute states, "It shall be unlawful for any full-time public official who has state-wide powers, for himself or on behalf of any business, or for any business in which such public official or member of his family has a substantial interest to transact any business with any agency." And yet, Mr. Plank's private law firm specializes in governmental law..

Unethical behavior by Mr. Plank is nothing new. Mr. Plank, and his law partner, Yasha Heidari, have been acting in violation of O.C.G.A. § 45-10-1 since they opened their law firm. O.C.G.A. § 45-10-1, also known as the Code of Ethics for Government Service, states that an employee is to "give a full day's labor for a full day's pay." And yet, Mr. Plank and Mr. Heidari have continued to be paid as full-time employees in the Investigations & Enforcement Unit of the State Ethics Commission since opening their law firm.

These law firm members appear to have no concern about making court appearances for their private clients during business hours at the State Ethics Commission. For example, on October 8, when Mr. Heidari would have been expected to be at work at the State Ethics Commission, he was scheduled to be the defense attorney at a status conference in the case of *Rangel v. Aram* in Fulton County Superior Court.

These actions are a classic example of fraud, waste, and abuse in state government. In this time of budget crisis, it appears that these two state employees should be returning money to the state taxpayers for the time they were working for their private law firm. As to Mr. Plank's actions now that he is a newly appointed public official, O.C.G.A. § 45-10-28 provides that a violation of the prohibition of a public official transacting business with a state agency can result in the official being required to repay any financial gain to the State, and makes provisions for the removal of the public official from office.

This is also a classic example of unethical behavior. Just a few short years ago, Mr. Plank began his employment with the State Ethics Commission as a legal intern. Today, as a state employee and a managing partner in a law firm that specializes in governmental law, Mr. Plank's actions epitomize unethical behavior. And yet, Mr. Plank now heads an agency, on an interim basis, which claims to be concerned with the pursuit of ethics.

### **Extra info:**

The Supreme Court of Georgia has repeatedly recognized a special fiduciary duty of loyalty on behalf of public officers and employees and that duty should not be compromised by either divided loyalties or other conflicts of interest. *Georgia Dep't of Human Resources v. Sistrunk*, 249 Ga. 543, 546 48 (1982), *overruled in part*, *Georgia Ports Auth. v. Harris*, 274 Ga. 146, 147 (2001). *See also Georgia State Bd. of Pharmacy v. Lovvorn*, 255 Ga. 259, 260 (1985); *Ianicelli v. McNeely*, 272 Ga. 234, 236 (2000).

**From:** Citizen Pain [citizenpain@rocketmail.com]  
**Sent:** Wednesday, October 21, 2009 5:23 PM  
**To:** me@glennbeck.com; stu@glennbeck.com; neal@wina.com; hc@herman Cain.com; hannity@foxnews.com; hugh@hughhewitt.com; ElRushbo@eibnet.com; cnorris@wnd.com; DennisPrager@DennisPrager.com; michaelssavage@savage-productions.com; denny@dennyradio.com; editor@stateline.org; tcrawford@capitolimpact.net; CassandraLawson@dij.state.ga.us; jtruslow@gsu.edu; dvon@homecoastcapital.com; gjay@cbjblawfirm.com; jgalloway@ajc.com; asheinin@ajc.com; cmcwhirter@ajc.com; apeters@alm.com; gland@alm.com; mhobbs@alm.com; Editor@beaconcast.com; richard.belcher@wsbtv.com; wendy.saltzman@cbsatlanta.com; scott.slade@coxradi.com; mattcook@640wgst.com; jwright@northfulton.com; stephanieramage@sundaypaper.com; atlanta@bizjournals.com; rhines@usnation.net; jgillooly@mdjonline.com; j.d.sumner@albanyherald.com; jimmyespy@daltoncitizen.com; tfain@macon.com; blong@wmgt.com; jdailey@wtoc.com; larry.peterson@savannahnow.com; erin.hughes@onlineathens.com; kay.harris@gafnews.com; General, Inspector; JBelinfante@gov.state.ga.us; SPerdue@gov.state.ga.us  
**Subject:** If the State Ethics Commissions aren't ethical, why expect the politicians to be?

## If the State Ethics Commissions aren't ethical, why expect the politicians to be?

Throughout this country, agencies tasked with overseeing campaign finances are known as State Ethics Commissions. This implies that these agencies are concerned with ethics. The recent actions by Georgia's State Ethics Commission provide an example of why the pursuit of ethics is not the goal of these agencies.

On October 15, Georgia's State Ethics Commission named Tom Plank as its interim director. This employee of the State Ethics Commission, who has gone from a legal intern to the head of the agency in just a few short years, is also the managing partner of an Atlanta-area law firm, Heidari & Plank, that specializes in representing private clients against the government.

Is it ethical for a public official in Georgia to also be a practicing attorney in private practice? The fact that a person could be Tom Plank and be confused about whether he was talking to the head of the Georgia agency that oversees campaign financing or to a private attorney who specializes in representing clients against state agencies may make the arrangement sound unethical. Under Georgia law, this arrangement is not only unethical, this dual role by a state official is illegal.

The State Ethics Commission's action in appointing Mr. Plank as a public official, even on an interim basis, violated Georgia's O.C.G.A. § 45-10-22 states that it is illegal for a full-time public official, or for a business in which the public official has a financial interest, to transact any business with a state agency.

According to state law, the State Ethics Commission's decision to appoint Mr. Plank should be undone, and Mr. Plank should be required to repay any money he gained from his business dealings with the State while he served as the interim director of the State Ethics Commission.

Unfortunately, this is not the first time that Mr. Plank has acted unethically while a full-time employee of the State Ethics Commission. Mr. Plank, who has been an attorney for one short year, and his law partner, Yasha Heidari, have been acting in violation of Georgia law, O.C.G.A. § 45-10-1, since they opened their law firm. O.C.G.A. § 45-10-1, also known as the Code of Ethics for Government Service, states that an employee is to "give a full day's labor for a full day's pay." In spite of this law, Mr. Plank and Heidari have been paid as full-time employees in the Investigations & Enforcement Unit of the State Ethics Commission while running their law firm.

These law firm members appear to have no concern about making court appearances for their private clients during business hours of the State Ethics Commission. For example, on October 8, when Mr. Heidari would have been expected to be at work at the State Ethics Commission, he was scheduled to be the defense attorney at a status conference in a lawsuit in a local court, and is again scheduled to be in court for this private client on October 22.

In this time of budget crisis, it appears that these two state employees should be returning money to the state taxpayers for the time they were working for their private law firm.

Far from asking Mr. Plank to repay the taxpayers for his time away from his government job, the State Ethics Commission's meeting last week was to congratulate Mr. Plank for the good job he had done, and make him their interim executive director.

It has been politics, and not the law, that has determined how this unethical situation has been handled up until now. And the people of the State of Georgia have made no outcry for Mr. Plank's removal or for the money that Mr. Plank owes them. This lack of outrage may be less because they don't care, and more because no media outlet in Georgia has reported the story. Apparently, politics is so much a part of the system that it is not even considered newsworthy.

Time will tell whether an investigation pending with Georgia's Office of the Inspector General will change the focus from politics as usual into one where ethical behavior is expected from those who claim to monitor the ethics of the State.

*Want to check the facts:*

Tom Plank and Yasha Heidari listed as current employees of the State Ethics Commission

<http://ethics.georgia.gov/personnel.aspx>

Phone: 404-463-1980

Heidari & Plank Law Firm

[http://www.heidariplank.net/index.php?option=com\\_content&view=article&id=5&Itemid=9](http://www.heidariplank.net/index.php?option=com_content&view=article&id=5&Itemid=9)

Direct line for Tom Plank: 202-684-6045

Direct line for Yasha Heidari: 404-518-6668

Tom Plank as listed as a private attorney specializing in administrative law, business law, and employment/labor law

<http://www.avvo.com/attorneys/30357-ga-thomas-plank-1843122.html>

Court case where Yasha Heidari is listed as a defense attorney

<http://www.feelkjudicialsearch.org/Scripts/UVLink.isa/tsgdb1/WEBSERV/PUBCivilSearch?action%253Dview%26track>

Meeting of Georgia's State Ethics Commission on October 15 where Mr. Plank was named Interim Executive Secretary

<http://www.ethics.ga.gov/news/CommissionVideo10152009.aspx>

O.C.G.A. § 45-10-1

"Any person in government service should: . . . Give a full day's labor for a full day's pay and give to the performance of earnest effort and best thought."

<http://www.lexis-nexis.com/hottopics/gacode/default.asp>

O.C.G.A. § 45-10-22

"It shall be unlawful for any full-time public official who has state-wide powers, for himself or on behalf of any business in which such public official or member of his family has a substantial interest to transact any business with an

<http://www.lexis-nexis.com/hottopics/gacode/default.asp>

O.C.G.A. § 45-10-28

"Any appointed public official or employee who violates Code Section 45-10-22, 45-10-23, 45-10-24, or 45-10-26 shall to: (A) Removal from office or employment, (B) A civil fine not to exceed \$10,000.00, and (C) Restitution to the state of benefit received as a result of such violation."

<http://www.lexis-nexis.com/hottopics/gacode/default.asp>

Georgia Inspector General's Office

<http://oig.georgia.gov/02/oig/home/0,2219,1586806,00.html>

Phone: 404-657-9716

## Exhibit 2

### Rule 7

#### 478-1-07 Outside Employment

##### (1) Introduction

Employees may seek employment and engage in a variety of activities outside of their work for the State. However, such other employment activities may not conflict with an employee's State employment. Employees who desire to engage in other employment must notify their supervisor and abide by the policies of their agency.

(a) Employees engaged in outside employment, including consultant relationships, must inform their supervisor of the nature of the additional work and their corresponding work hours. Employees must also disclose actual or potential conflicts of interest related to their outside employment activities and/or relationships as soon as they become aware of them.

< Definitions): and (Terms 478-1-02 in those to addition apply definitions terms following the Rule, this of purposes For (b) >

1. "Other employment" includes working as an employee for any employer (including another State Agency), owning a business, contracting to provide services for a fee, serving as a consultant for a fee or honorarium, or being self-employed. "Other employment" also includes any elected or appointed public office (whether federal, state, or local), or a position in a political party or organization. "Other employment" does not include participating in yard sales, hosting home parties (provided that the employee is not a paid representative or commissioned sales representative of the company), babysitting, or boarding animals (provided that such services are not offered to the general public).

2. "State employment" means the employee's primary employment with a State agency.

##### (2) Additional State Employment.

Due to provisions of the Fair Labor Standards Act, current State employees who desire to work for more than one State agency must have prior written authorization from both their current and prospective employers before commencing employment with a second State employer.

##### (3) Conflicting Employment Activities.

Employees must avoid employment, activities and/or relationships that actually conflict or could conflict with the State's interests; create a perception of impropriety; or, adversely affect the State's or the employing agency's reputation.

(a) Examples of conflicting employment activities include but are not limited to the following:

1. Concurrent employment that interferes with the time or attention that should be devoted to State employment;

2. Holding a financial interest in any present or potential competitor, customer, supplier, or contractor of the State, unless the ownership interest is less than 5% of that business;

3. Acceptance of a membership on the Board of Directors or serving as a consultant or advisor to any board or management of any business that is a present or potential competitor, customer, supplier or contractor of the State;

4. Engaging in any transaction involving the State from which the employee can benefit, financially or otherwise (including lending or borrowing money, guaranteeing debts or accepting gifts, entertainment, or favors from a present or potential competitor, customer, supplier, or contractor), except as he/she may be compensated in the usual course by the State;

5. Use of the State's time, equipment, or other resources in pursuing outside business activities; or;

6. Use for the employee's personal benefit or the disclosure by the employee to a third party of any confidential, unpublished information obtained in connection with his/her employment with the State.

(b) In all cases, the determination as to whether a conflict or potential conflict exists will be made by the agency.

##### (4) Prohibited Public Employment and Political Appointments

(a) Employees also may not hold office or be employed in the legislative or judicial branch, with one limited exception: an employee who has taken a leave of absence without pay may serve temporarily as an employee of the legislative branch while it is in session and during the authorized stay-over period.

(b) For additional guidelines regarding political activities, refer to Rule 478-1-08.

##### (5) Termination of Other Employment.

If an agency determines that an employee's other employment interferes with the employee's performance or creates an actual or an apparent conflict of interest, the employee will be asked to terminate the other employment.

##### (6) Consequences of Rule Violation.

Failure to make required disclosures or take action to resolve express or direct conflicts of interest may result in disciplinary action, up to and including suspension without pay and/or termination of employment.

**From:** "Plank, Tom" <TPlank@ethics.ga.gov>  
**Date:** October 14, 2009 4:09:05 PM EDT  
**To:** "bill.jordan@alston.com" <bill.jordan@alston.com>  
**Cc:** "Heidari, Yasha" <YHeidari@ethics.ga.gov>  
**Subject:** Recap of Our Earlier Discussion

Mr. Chairman:

As we discussed previously, Yasha and I have formed a small law firm in order to gain some experience in other areas of the law and to take on some clients pro bono. The AG's Office sees no problems with this so long as we do not do any work other than government work on government time and we avoid any conflicts. Naturally, we will never use government time or resources for anything other than service to the Commission. Likewise, we will never take on any clients that will create a conflict of interest. If by some remote possibility a conflict ever does arise, it will be immediately disclosed to the Commission and action will be taken to ensure that the conflict is nullified. With that said, we are extra diligent to ensure that a conflict will never arise.

Best regards,

Tom Plank &  
Yasha Heidari

Tom Plank  
Attorney  
State Ethics Commission  
200 Piedmont Avenue  
Suite 1402 - West Tower  
Atlanta, Georgia 30334  
404-463-7750 direct line  
404-463-1980 agency line  
404-463-1988 fax



## Exhibit 4

### Stefan Ritter

**From:** Stefan Ritter  
**Sent:** Wednesday, October 14, 2009 5:49 PM  
**To:** 'Jordan, Bill'  
**Subject:** RE: Recap of Our Earlier Discussion

Bill:

I learned of the Heidari & Plank law firm last week – Wednesday October 9 -- when I went to the online State Bar directory to find Yasha Heidari's email address and found it to be listed by the Bar at the Heidari & Plank law firm, leading to a Google search to see what was going on. I then discussed it with Yasha and later briefly with Tom Plank, who said you had planned to address it at the upcoming meeting. No one at the AG's Office was aware of this firm before I happened upon it, though Yasha has told me they previously cleared it with Rick Thompson.

I am unaware of any explicit prohibition against conducting such a firm. There is one for lawyers at the Law Department (per O.C.G.A. § 45-15-33) but apparently not otherwise. The law does require them as government employees to put in a full day's work for a full day's pay (O.C.G.A. § 45-10-1), to avoid conflicts of interest (O.C.G.A. § 45-10-1, *et seq.*, and caselaw), to not use state property and resources for personal gain (numerous statutes), and to prevent appearances of impropriety (per Governor Perdue's first executive order when taking office, among other things).

There is no question that the existence of this law firm has "raised eyebrows" over here and I think it could and would with the general public were the general public aware of it. It is absolutely critical that Tom and Yasha not conduct any private work or representation while at work during the day. That would not only raise governmental ethical concerns but legal concerns as the documents and emails and so forth they get would not be privileged if transmitted through state equipment.

That said, however, I do not think it is appropriate or in the current purview of the Law Department to say Tom and Yasha's arrangement is improper. It is not my intent – or the intent of anyone here – to interfere with something they have the lawful right to do, and it may be that they can and are addressing the situation appropriately, and I am certainly not here to throw stones at that.

I have discussed all of this directly with Yasha and understand that my thoughts have been passed on to Tom as well. We requested that they contact you to make sure you are aware of the arrangement and to give you and the opportunity to opine on it if you want. This can be done privately; it does not need to be done in an open meeting, but however you'd like to address this is up to you.

Finally let me note that my remaining concerns, other than the strict legalities of the situation addressed above, are two-fold: (1) if Yasha and Tom are to continue the law firm, doing so should be done in a transparent fashion, especially given their positions, to prevent the appearance of impropriety, and (2) this is particularly important with a new director coming on board who may have his or her own views on the situation, so Tom & Yasha obtaining your blessing in advance would prevent misunderstandings with the new director.

Thanks for considering my thoughts.

STEFAN RITTER  
Senior Assistant Attorney General

Office of the Attorney General  
40 Capitol Square, SW  
Atlanta, GA 30334  
(404) 656-7298

## Employee Acknowledgement Work Hours

To all employees:

*Any schedule change must be approved in writing by your supervisor.*

Schedule: 8:45 a.m. - 5:15 p.m., M - F  
Lunch: 30 mins - \_\_\_\_\_

Employee Signature: \_\_\_\_\_

Print Name: Yasha Heidari

Date: Jan 30<sup>th</sup>, 2008

Supervisor Signature: \_\_\_\_\_

Yasha -

For accounting/time keeping purposes,  
time can only be on the quarter  
hours (e.g., 8:45 - 5:15, etc). ~~etc~~

See Jennifer if you have further  
questions regarding that issue.

— K



**OFFICE OF THE STATE INSPECTOR GENERAL**

**SONNY PERDUE**  
Governor

**ELIZABETH P. ARCHER**  
State Inspector General

December 21, 2009

Mr. Thomas E. Plank, Jr.  
Heidari & Plank, LLC  
P.O. Box 79217  
Atlanta, Georgia 30357

Reference: Records Request

Dear Mr. Plank:

As you are aware, the Office of the State Inspector General (OIG) is currently conducting an administrative investigation in response to a complaint filed against you, in which it is alleged that you are conducting a law practice on state time. In an effort to resolve this matter and to provide you with an opportunity to dispute the aforementioned allegations, we are requesting the following documents:

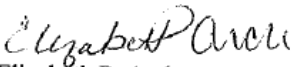
1. A list of all current and former clients (including pro bono clients);
2. A list of pending and closed cases dating from January 2009 to the present;
3. A list of all court appearances, including dates and times of the appearances;
4. The percentage of pro bono work to total work performed by you;
5. A list of all organizations for which you have performed pro bono work;
6. All firm calendars;
7. A list of your current and former flexible work schedules at the State Ethics Commission, including telework and compressed work-week schedules; and
8. A list of all cases in which you were hired to serve as an expert witness.

Please be aware that this request calls for your voluntary submission of the aforementioned documents. Voluntary submission of these documents will better allow OIG to address the allegations against you and ensure complete transparency.

Mr. Plank  
December 21, 2009  
Page 2

If you have any questions or need additional information about this request, please feel free to contact me. Thank you in advance for your cooperation in resolving these allegations.

Respectfully,

  
Elizabeth P. Archer

EPA: bd

## Exhibit 7

**From:** Archer, Liz  
**Sent:** Tuesday, January 05, 2010 4:16 PM  
**To:** 'tplank@ethics.ga.gov'; 'yheidari@ethics.ga.gov'  
**Cc:** Donaldson, Bill; 'yasha@heidariplank.com'; 'tplank@heidariplank.com'  
**Subject:** Request for Production of Documents  
**Attachments:** Document Request Letter to Tom Plank\_12-21-09.pdf; Document Request Letter to Heidari\_12-21-09.pdf

Gentlemen,

By now you should have received our Request for Documents dated December 21, 2009. (see attached) To ensure timely resolution of this matter, please provide the information requested by close of business on Friday, January 15. If you need additional time to gather the information and/or documents please advise.

Elizabeth P. Archer  
Georgia Inspector General  
2 Martin Luther King, Jr., Drive, SW  
1102 West Tower  
Atlanta, Georgia 30334  
404.656.7924  
[www.oig.ga.gov](http://www.oig.ga.gov)

**CONFIDENTIALITY NOTICE**

This email and any attachments are intended solely for the use of the named recipient(s). This email may contain privileged attorney/client communications or work product. Any dissemination of this email by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the email or any attachments or from making any use of the email or attachments. If you believe you have received this email in error, notify the sender immediately and permanently delete the email, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the email or attachments.

## Exhibit 8

**From:** Plank, Tom [TPlank@ethics.ga.gov]  
**Sent:** Thursday, February 11, 2010 9:40 AM  
**To:** Archer, Liz  
**Cc:** Donaldson, Bill  
**Subject:** Appointment/Letter

Good morning, Liz.

I would still like to reschedule our appointment. We had an appointment for last Friday that was cancelled by your office and I was not able to meet yesterday because members of the General Assembly had just requested that I provide a great deal of statutory language by today.

At the very least, we need to discuss attorney-client issues raised by your letter requesting information on my pro bono clients. It was my understanding that the IG is looking into allegations made by a disgruntled former employee, who was fired for fraud, waste and abuse, of nongovernment work on government time/equipment. As you may be aware, this former employee has notified the Commission that she may litigate her dismissal. As you know, I have cooperated fully with your investigation by immediately allowing the IG to take and image my work computer, by sharing all documentation the agency has concerning this matter, and by speaking with, and answering the questions of, yourself, your Deputy, and your investigator for nearly the entire day.

In light of the fact that the firing mentioned is likely to be litigated, and due to the fact that my work computer contains confidential records concerning on-going investigations, it would have been entirely reasonable if I had decided that to wait to turn over any equipment, documents, or answer any questions, until receiving guidance from the Commission or the Attorney General's Office first. Nonetheless, I felt that it was important to give the IG everything I could, as quickly as I could, in order to resolve this matter.

However, your letter goes well beyond the issue under investigation and gets into areas concerning attorney-client privilege that I understand were not raised in any complaint. Mindful of the fact that the results of our discussions concerning attorney-client issues will be subject to the Open Records Act when your investigation is complete, I would like to work with you towards reaching a solution to this problem.

Naturally, it would be best to further discuss this in person or on the phone. If you are able to reschedule our appointment for today or next week, please let me know.

Best,  
Tom

Tom Plank  
Acting Executive Secretary  
State Ethics Commission  
200 Piedmont Avenue  
Suite 1402 - West Tower  
Atlanta, Georgia 30334  
(404) 463-1985  
[tplank@ethics.ga.gov](mailto:tplank@ethics.ga.gov)  
[www.ethics.ga.gov](http://www.ethics.ga.gov)


# Exhibit 9

46579716 From: (7705517750) 12/18/09 12:29 PM Page 3 of 4

NON-JURY TRIAL Civil Division Page 2 of 6

Judge **Barry Zimmerman**  
~~VICTORIA MORAN~~

Date Friday October 16, 2009  
Time 09:00 AM  
Clerk North Annex Rm. 103  
PDR -



Parties	Attorneys	Case
ANITA MASON X	ZACKARY TADLOCK ATLANTA GA 30342	006 09MS097610
-- VERSUS --	DAVID BAUM ROSWELL GA 30076	
BAUM & ASSOCIATES, PC X		
Note: <i>Δ's Atty filed conflict letter. Tt's Atty does not object. Parties notified</i>		
FRANK LYLE ✓		007 09MS097988
-- VERSUS --		
MICHAEL MILLER DBA MILLER MANAGEMENT ✓		
MICHAEL MILLER ✓		
Note:		
MICHAEL DAVIS ✓		008 09MS098008
-- VERSUS --		
GLENN OSBORNE ✓		
Note:		
NORMA HITCHCOCK X		009 09MS098080
-- VERSUS --		
RICHARD WATTS X		
MELISSA WATTS X		
Note:		
JOEL MERO ✓		010 09MS098180
-- VERSUS --		
PAUL VLASEK ✓	YASHA HEIDARI ATLANTA GA 30325	
Note:		

*Carit'd*

*Indy. Pa TT*

*Reset Pa settle*

*Agreement NJCA agree.*

*Indy. Pa Δ as TT claim  
Indy. Pa Δ on Δ & CC.*

# Exhibit 10

**DEF 1 DIVIDEN Friday 25**

Special Events \_\_\_\_\_

Announcements \_\_\_\_\_

May 268

Court Appearances			
time	case	court	purpose
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

time	Appointments client	Things to do
_____	_____	1. _____
_____	_____	2. _____
_____	_____	3. _____
_____	_____	4. _____
_____	_____	5. _____
_____	_____	6. _____
_____	_____	7. _____
_____	_____	8. _____

time	People to call	Documents Due
_____	_____	answers: _____
_____	_____	requests for production: _____
_____	_____	requests for admission: _____
_____	_____	interrogatories: _____
_____	_____	other deadlines: _____
_____	_____	_____
_____	_____	_____




## Exhibit 11

**From:** Yasha Heidari [yasha@heidariplank.com]  
**Sent:** Thursday, September 10, 2009 10:46 AM  
**To:** Gregory Jay  
**Subject:** Re: Fwd: Rangel v. Aram

Gregory,

Good morning. My apologies for not getting back to you sooner.



Best regards,  
Yasha

-

Yasha Heidari  
Heidari & Plank LLC  
attorneys-at-law  
direct: 404-518-6668  
facsimile: 404-601-7852  
www.heidariplank.com

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**From:** Yasha Heidari [yasha@heidariplank.com]  
**Sent:** Monday, September 21, 2009 4:09 PM  
**To:** Gregory Jay  
**Subject:** RE: Fwd: Rangel v. Aram


Gregory,

Friday afternoon will be fine. What time do you have in mind? It would be better if it is earlier rather than later so you can finish looking over the documents in one day.

I will keep you posted, but assuming things turn out the way I plan, I will be able to bring the documents to your office.

Best,  
Yasha

# Exhibit 12



**FULTON COUNTY SUPERIOR COURT**  
**COMP RM PRELIMINARY HEARINGS CALENDAR**

PAGE 5 OF 10

JUDGE ROOM COMPLAINT  
 DATE FRIDAY DECEMBER 18, 2009  
 TIME 09:00 AM  
 ROOM JUSTICE CENTER TOWER RM. 8C

INDICTMENT	DEF. NAME	BKG/MNI	ATTORNEY
20 09CP101514	DRAGITI, CORINNA	0938642	YASHA HEIDARI
<i>BOND rel. 12/4/09 @2384455</i>		1556868	
CHARGE: 16-8-2:[F756] THEFT BY TAKING			
CHARGE: 16-8-2:[F756] THEFT BY TAKING			
SURETY:	FULTON COUNTY PRETRIAL SERVICES		3000
SURETY:	FULTON COUNTY PRETRIAL SERVICES		3000
<i>09SC 86605</i> <i>Accel W-2</i> <i>FW 1/4/10</i>			
COM SVC.	FINE	REST.	PROB. FEE
21 09CP101517	MCCAULEY, ARTHUR	0938581	OVERTON THIERRY
JAIL	@1771055 <i>aka James Kelly</i>	1453654	
CHARGE: 16-13-30:[F661] POSS OF COCAINE			
<i>Bond modified</i>			
COM SVC.	FINE <i>denied</i>	REST.	PROB. FEE
<i>True billed 12/11/09</i> <i>09SC 86449</i> <i>NCT</i> <i>FW 12/29/09</i>			
22 09CP101520	BURTON, JOHN	0938670	OVERTON THIERRY
JAIL	@1613218	667217	
CHARGE: 16-13-30:[F661] POSS OF COCAINE			
<i>True billed 12/11/09</i> <i>NOCT 01.11.11</i>			

FILED IN OFFICE  
JAN 15 2010  
DEPUTY CLERK SUPERIOR COURT  
FULTON COUNTY, GA

**INDICTMENT NO.**

Corinna Braciti

095C86605

PRE-TRIAL INTERVENTION AND DEAD DOCKET ORDER

*IT IS HEREBY ORDERED that the parties hereto shall cause, by their request, a report to be made to them of the success or failure of the Defendant in this program,*

*IT IS FURTHER ORDERED that this case be placed on the DEAD DOCKET. Should the Defendant successfully complete the pre-Trial Intervention Program, he/she may apply for expungement under the provisions of O.C.G.A. 35-3-37. Should the Defendant not Pre-Trial Intervention, this Court will remove Defendant's case from the Dead Docket and reactivate it for prosecution upon receipt of a proper motion from the State.*

SO ORDERED this 18<sup>th</sup> day of December, 2005.

FULTON SUPERIOR COURT  
ATLANTA JUDICIAL CIRCUIT

CONSENTED TO BY:

*John P. ...*  
ASSISTANT DISTRICT ATTORNEY

BOOK  
20450

PAGE 022  
DEFENSE ATTORNEY

## Exhibit 14

**Deal, Elaine**

---

**From:** Plank, Tom (TPlank@ethics.ga.gov)  
**Sent:** Tuesday, February 09, 2010 12:40 PM  
**To:** Deal, Elaine  
**Subject:** RE: Furlough Days

Woops, just missed it. Thank you anyway, Elaine. Sorry for the inconvenience.

---

**From:** Deal, Elaine [mailto:edeal@sos.ga.gov]  
**Sent:** Tuesday, February 09, 2010 11:02 AM  
**To:** Plank, Tom  
**Subject:** RE: Furlough Days  
**Importance:** High

Good morning, Tom.  
Pay roll closes at 12 today. Please send the name, date and hours and I will get them in.  
Thanks. Elaine 404-656-6343

---

**From:** Plank, Tom [mailto:TPlank@ethics.ga.gov]  
**Sent:** Tuesday, February 09, 2010 9:11 AM  
**To:** Deal, Elaine  
**Subject:** Furlough Days

Good morning, Elaine. Staff was wondering if they are able to take furlough days (per the Governor's proposed amended 2010 budget) during this pay period or if it was too late into the pay period at this point.

Thank you,  
Tom

Tom Plank  
Acting Executive Secretary  
State Ethics Commission  
200 Piedmont Avenue  
Suite 1402 - West Tower  
Atlanta, Georgia 30334  
(404) 463-1985  
[tplank@ethics.ga.gov](mailto:tplank@ethics.ga.gov)  
[www.ethics.ga.gov](http://www.ethics.ga.gov)

# Exhibit 15

April 30 to May 4.MDI

Page 1 of 10

This is the html version of the file [http://www.fultonecd.org/develop/permits/permits-plus/4-30\\_5-04-07.pdf](http://www.fultonecd.org/develop/permits/permits-plus/4-30_5-04-07.pdf).  
Google automatically generates html versions of documents as we crawl the web.

Page 1

05-10-2007

10:42 am

Activity: B07-00539  
Parcel: 07-1500-0140-342  
Site Address: 410 FAIRMONT WAY UNIN  
Description: new home

Owner: KB HOME ATLANTA  
Applicant: KB HOME ATLANTA  
Contractor: KB HOME ATLANTA  
Occupancy: 10

Valuation: \$105,920.00  
Activity: B07-00635

Parcel: 14F-0095-LL-029  
Site Address: 5361 BOREAL WAY UNIN  
Description: SFR

Owner: STONE CONSTRUCTION INC.  
Contractor: STONE CONSTRUCTION CO.  
Applicant: VINCENT NGUYEN

Occupancy: 10  
Valuation: \$170,000.00

Activity: B07-00709  
Parcel: 09F-3900-0176-091

Site Address: 5036 COLTON RUN UNIN  
Description: New SFR

Owner: KNC & A HOMES INC  
Applicant: GENE ARKINSON / KNC & A HOMES INC

Contractor: KNC&A HOMES, INC.  
Occupancy: 10

Valuation: \$168,000.00  
Activity: B07-00713

Parcel: 14F-0079-LL-023  
Site Address: 507 HUBBARD WALK UNIN

Description: New SFR  
Owner: CASCADE ELITE, LLC

Applicant: CASCADE ELITE, LLC  
Contractor: VON HUBBARD CONTRACTORS GROUP

Occupancy: 10

Valuation: \$180,000.00  
Activity: B07-00741

Parcel: 09C-0800-0014-056  
Site Address: 4234 MATISSE LN UNIN

Description: SFR

Owner: WEEKLY HOMES, LP  
Applicant: BRIAN ZIMMERMAN

Contractor: WEEKLEY HOMES LP  
Occupancy: 10

Valuation: \$164,400.00  
Activity: B07-00750

## Activity Data Report FULTON COUNTY, GA

Type: B\_BLDG

Sub Type: SNEW

DATE\_D: 04/30/2007

Use:  
Fees Req: \$1,144.85  
Type: B\_BLDG

Phone: 678-255-4200  
Phone: 678-255-4200  
Phone: 678-255-4200  
Class: 101

Fees Col: \$1,144.85  
Sub Type: SNEW  
DATE\_D: 05/03/2007

Ir

Use:  
Fees Req: \$1,503.25  
Type: B\_BLDG

Phone: 770-263-7866  
Phone: 770-263-7866  
Phone: 770-263-7866  
Class: 101

Fees Col: \$1,503.25  
Sub Type: SNEW  
DATE\_D: 05/04/2007

Ir

Use:  
Fees Req: \$1,492.05  
Type: B\_BLDG

Phone: 770-480-4931  
Phone: 770-480-4931  
Class: 101

Fees Col: \$1,492.05  
Sub Type: SNEW  
DATE\_D: 05/02/2007

Ir

Use:  
Fees Req: \$1,559.25  
Type: B\_BLDG

Class: 101  
Fees Col: \$1,559.25  
Sub Type: SNEW  
DATE\_D: 05/01/2007

Ir

Use:  
Fees Req: \$1,475.25  
Type: B\_BLDG

Phone: 770-569-5565  
Phone: 404-787-7624  
Phone: 770-486-0415  
Class: 101

Fees Col: \$1,475.25  
Sub Type: SNEW

Ir

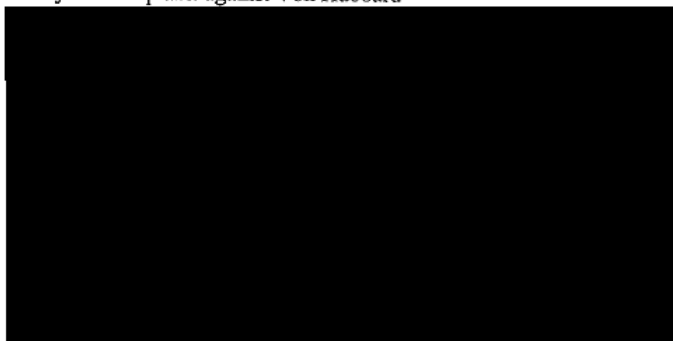
## Exhibit 16

---

**From:** "Forward\_To\_External\_YHeidari" <yasha@heidari.org>  
**To:** "Heidari, Yasha" <YHeidari@ethics.ga.gov>  
**Sent:** Wednesday, September 23, 2009 12:54 PM  
**Attach:** Complaint of Patricia Carter v Von Hubbard - DRAFT.pdf  
**Subject:** Fwd: Complaint against Von Hubbard

----- Forwarded message -----

**From:** "Yasha Heidari" <yasha@heidariplank.com>  
**Date:** Sep 21, 2009 3:36 AM  
**Subject:** Complaint against Von Hubbard



Best,  
Yasha

-  
Yasha Heidari  
Heidari & Plank LLC  
attorneys-at-law  
direct: 404-939-2742  
mobile: 404-518-6668  
facsimile: 404-601-7852  
[www.heidariplank.com](http://www.heidariplank.com)

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## Exhibit 17

### Yasha Heidari Search Criteria

The following information is search criteria used by Yasha Heidari while searching on his LexisNexis account paid by the State of Georgia.

- Identification – Line 4
- Name - 7
- Attorney's Fees – 58
- Venue – 62, 71
- Magistrate – 76
- Non-Disclosure Agreement – 87,88, 91, 94
- Disclosure Agreement – 89
- Unconstitutional Ordinance – 99
- Cemetary – 105, 107, 109
- Funeral - 108
- Cemetery – 141
- GA Case 10-14-30 – 164
- Attorney General – 166, 167, 353, 424, 596
- Contested Case – 176
- County w/p Immunity – 182
- Agency w/s fine w/s agency – 187
- Immunity – 207, 220
- 36-33-1 w/p neglect to perform – 218
- Liable – 221
- Influence – 229
- Community Improvement District – 241, 260
- Raffle – 264
- Gambling – 268
- Entry Fee – 291
- Deceptive – 293
- Electronic – 299, 799, 838, 1253, 1256, 1271
- Perjury – 303
- State Administrative – 358
- Hearing – 359
- Osah not a court – 376
- OSAH – 377, 511
- OSAH w/s court – 379
- OSAH w/s not w/s court – 380
- Attorney General opinion not binding – 389, 391
- opinion w/s attorney w/s general w/s not w/s binding – 392
- opinion w/s attorney w/s general w/s persuasive – 405
- 21-5-71 – 417
- emergency excuses law – 429
- emergency – 432
- emergency excuses duty under law – 435
- emergency w/s excuse w/s duty w/s law – 438
- emergency w/s excuse w/s duty – 440
- emergency w/s excuse w/s break w/s law – 442
- necessity w/s break w/s law – 446
- necessity – 448
- justification – 449
- excuse w/s defense – 453
- emergency w/s excuse – 455, 476
- emergency w/s legal w/s excuse – 469
- death w/s legal w/s excuse – 472
- agency authority waive fees – 480
- waive fees – 481
- waive – 482
- agency w/s authority w/s waive w/s fee – 484
- agency w/s authority w/s waive w/s fee – 486
- agency w/s waive w/s fee – 488

- waive w/s filing w/s fee – 492
- article chapter paragraph – 497
- article chapter – 498
- attorney w/s general w/s osah – 509
- OSAH w/s executive w/s branch – 513
- OSAH w/s judicial w/s branch – 518
- OSAH w/s court – 520
- OSAH w/s law – 521, 523
- due w/s process w/s administrative w/s agency - 526
- OSAH w/s right w/s counsel – 530
- administrative w/s agency w/s right w/s counsel – 532
- agency w/s right w/s counsel – 534
- valet – 538
- parking – 539
- counsel – 552, 560
- 45-15-34 – 567
- attoreny w/s general w/s administrative – 571
- attorney w/s general w/s administrative – 573
- attorney general must represent agency in hearing – 584
- seperation of powers – 588, 590
- seperation w/s power – 592
- separation w/s power – 594
- administrative quasi-judicial – 599
- restraining order – 604, 606
- trade name – 627
- electronic w/p 16-10-71 – 652
- electronic w/p 16-10-20 – 654
- 16-10-20 – 656
- Detain – 658, 671, 674
- Power – 677
- probable cause – 686, 687
- arrest – 689
- alcohol - 691
- minimum – 694
- privacy – 701
- malpractice – 710
- rule construed against state – 717, 719
- rule w/s construe w/s against w/s state – 722
- construed w/s against w/s state – 724
- limitation of action – 731
- retroactive – 732
- rule w/s construe w/s against w/s state – 733
- construe w/s against w/s state – 735
- physical obstruction another – 740
- physical obstruction – 741
- obstruction – 742
- robbery – 748
- political discrimination – 757
- discrimination – 758
- theft – 760
- bankruptcy and discharge and student and undue and hardship – 761
- medical w/s malpractice w/p wrong w/s medication – 777
- OCGA SEC 21-5-13 – 784
- 21-5-13 – 786, 788
- Remit – 813
- toxic w/s mold – 820
- mold – 822
- mold w/s mildew – 825
- mold w/p premise – 830
- sales and use tax – 833
- child support – 845
- jurisdiction – 878
- 19-10-110 – 884
- 19-11-110 – 886
- personal w/s jursidiction w/s sending w/s money – 890
- personal jursidiction sending money – 892
- personal w/s jursidiction w/s money – 894
- personal jurisdiction – 896



- false swear – 906
- swearing – 907
- nuisance w/s nightclub – 933
- bidding – 1002
- Administrative Services – 1004, 1005
- Professional – 1006
- Usury – 1012
- Personal guaranty – 1046, 1051, 1081, 1093, 1105, 1143, 1162
- revenue measure – 1061, 1070
- csi(138607) – 1069, 1103
- personal gauranty – 1079
- identify w/s debt – 1088
- verified – 1109
- oath - 1136
- personal guarantee – 1176, 1190
- fair debt – 1197
- debt collection – 1198
- bank w/s joint venture – 1202
- credit card debt – 1208
- credit card w/s open account – 1213
- creditor seeking trust debtor trustee – 1217
- trust – 1218
- bankruptcy judgment student debt – 1225
- discharge judgment student debt – 1226
- bankruptcy student – 1227
- bankruptcy discharge judgment student – 1228
- minutes – 1235
- 50-18-95 – 1264
- 50-18- - 1266
- Laches – 1276
- Investigator – 1289
- Detective – 1295
- Conspiracy – 1302
- zt redding – 1305
- redding – 1306
- savana and redding – 1308
- april redding – 1309
- term – 1312, 1335
- superior – 1313
- elect – 1331
- judge – 1334
- Office – 1351
- superior court judge term of office – 1352
- retaliation national origin – 1394
- retaliation – 1395, 1400
- license – 1402
- property tax appeal – 1454
- appeal – 1456
- 44-14-361 – 1471
- repudiate w/s contract w/s demand w/s more w/s money – 1478
- repudiate w/s demand w/s more w/s money – 1480
- repudiate w/s more w/s money – 1482
- breach w/s contract w/s demand w/s more w/s money – 1485
- breach w/s contract w/s demand w/s money – 1489
- breach w/s demand w/s money – 1491
- repudiation – 1493
- magistrate appeal – 1496
- magistrate – 1497
- appeal – 1498
- voting – 1517

## Exhibit 18

### Thomas Plank Search Criteria

The following information is search criteria used by Thomas Plank while searching on his LexisNexis account paid by the State of Georgia.

- campaign communication – 5
- candidate disclaimer campaign communication – 8
- candidate disclaimer campaign communication literature – 9
- candidate disclaimer campaign literature – 10
- candidate disclaimer campaign – 11
- candidate campaign – 12
- candidate campaign communication – 13
- candidate campaign literature – 14
- campaign literature disclosure – 15
- campaign literature – 16
- attorney general – 22
- community improvement district – 49
- atlanta development authority – 57
- atlanta housing authority – 58
- 277 ga. app. 768 – 59
- procurement contract – 65, 68
- veteran – 69, 71, 72
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- agency rule making &#38; statute &#38; specifically authorized – 133
- agency rule making – 134
- agency rulemaking – 135, 213
- agency rulemaking specifically authorized – 141
- agency rulemaking &#38; specifically authorized – 142
- agency rule &#38; specifically authorized – 143
- agency rule OR rules OR rulemaking &#38; specifically authorized – 146
- If an administrative agency has been granted sweeping powers, and if a regulation at issue clearly falls within the rulemaking prerogatives expressly granted by statute, the court should not hesitate to conclude that Congress has authorized the regulation. On the other hand, if Congress has granted only limited powers to the agency, and the regulation bears little kinship to the rulemaking authority expressed by statute, the validity of the regulation is suspect. – 152
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- specifically authorized – 160, 163, 164
- shaw v. mayor – 165
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- conflicting statutes – 169
- conflicting statutes – 170, 173
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- plain meaning &#38; statutory construction – 181
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- agency &#38; rulemaking authority – 190
- implicit rulemaking authority – 191, 200
- agency &#38; rulemaking authority – 192
- rulemaking – 195, 222, 281
- implicit rulemaking – 197
- implicit &#38; rulemaking – 198
- implicit &#38; rule &#38; agency – 199
- implicit authority &#38; agency &#38; rule – 201
- implicit &#38; agency &#38; rule – 204
- implicit &#38; agency &#38; rulemaking OR rule – 205
- implicit &#38; agency &#38; rulemaking – 206
- implicit &#38; agency rule - 207
- implicit authority &#38; agency rule – 210
- implicit authority &#38; agency rulemaking – 211
- apparent authority &#38; agency rulemaking – 212
- agency rulemaking authority &#38; specific – 215
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- rulemaking &#38; implicit authority – 220
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- Burt v. Energy Servs. Inv. Corp. – 247
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- rule specifically authorized – 289
- rules specifically authorized – 290
- specifically authorized rules – 291
- specifically authorized AND rules – 292
- specifically authorized AND rulemaking – 295
- specifically authorized AND rulemaking AND rule – 297
- 295 Ga. App. 115 – 301, 302
- rule AND validity – 303
- validity – 304
- validity AND rule – 306
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- signing statement – 329, 333
- Governor &#38; signing &#38; legislation – 330
- Whistleblower – 337, 536
- child support – 349, 350
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- Contractor – 375
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- privilege - 403
- trade name – 412, 462, 463
- adjustment of status – 420

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- section 241(i) – 428
- section 245(i) – 429
- personal w/s guaranty AND grubbs – 445
- gwin – 465
- commissioner &#38; license – 487
- commissioner &#38; license OR permit – 494, 512
- whistle – 530, 534
- whistle blower – 537
- within one year after discovering – 544
- statute of limitations &#38; civil action – 545
- statute of limitations – 547
- statute of limitation – 548, 550
- tolling – 551
- civil &#38; tolling – 552
- %has%terms% - 554
- tolling &#38; actions against local – 555
- tolling &#38; civil &#38; government – 556, 557
- &#34;such as&#34; &#38; contract – 566
- &#34;such as&#34; &#38; contract terms – 567
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- &#34;such as&#34; - 570
- hospital &#38; interpreter – 576, 577
- hospital &#38; translator – 578
- interpretation w/s hospital – 580
- translation – 581
- interpret – 582
- interpreter – 583, 584, 596, 598, 599
- interpreter w/p hospital – 585, 586
- power of attorney - 624
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- &#34;employee file&#34; OR &#34;employment file&#34; - 691
- &#34;equal employment opportunity commission&#34; - 775
- emotional distress – 1074
- work w/s belongs w/s employer – 1094
- work belongs to employer – 1096
- work for hire w/s intellectual w/s property – 1098
- work for hire intellectual property – 1100, 1110
- independent w/s contractor w/s intellectual w/s property – 1103
- contractor w/s intellectual w/s property – 1105
- intellectual w/s property – 1107
- repudiation – 1122
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